

**PETITION AND REQUEST FOR PRECAUTIONARY MEASURES
(WITH EXHIBITS)**

TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

SIX CHILDREN OF CITÉ SOLEIL, HAITI

AND

SAKALA COMMUNITY CENTER FOR PEACEFUL ALTERNATIVES

PETITIONERS

**CONCERNING VIOLATIONS OF THE AMERICAN CONVENTION ON HUMAN
RIGHTS**

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“Tout moun se moun.”

-- Haitian Proverb (“Every person is a human being.”)

“We want eyes to be open, voices to whisper hope on behalf of these children so that our efforts to create a cleaner environment for these children could also be an effort for dreams to come true.

We want these children to fly and know their potential. We have through this action a special thought for these children from SAKALA who have died already, suddenly, without having the time to tell us what they were suffering from, and for those who are still suffering from breathing smoke that is toxic.

We want to see our children becoming children again without having to deal with so much trash all around them.

This is the reason of this action. This is so the children there can become who they were born to be. So they can fully live with dignity that life intended for. It is starting with the children because they are the future, they will be our adults of tomorrow.”

-- Declaration of Mr. Daniel Tillias, Founder of Petitioner SAKALA (Exhibit J)

“The children are not living in dignity and respect. Their right is violated all the way. It is the base of a lot of problem they are facing. No school, no water, no food. Tons of trash, tons of dirty water, mosquitoes, and microbes. People just try anything to protect themselves.

If we want to say something about justice. It’s terrible ... it does not exist. All the rights are violated, right to live, to educate, to eat, to have water access and so on.”

-- Declaration of Mr. Felder Jean Paul, Executive Director, Petitioner SAKALA (Exhibit K)

“The bad smell is not good for us. It makes me sick, I can’t breathe well with the smell.”

-- Statement of Petitioner E.D., age 16 (Exhibit A)

“[W]hen the water dries there is a lot of dirt and trash. So they put it in a pile and set fire to it and the smoke [makes me ill] ... So what I would say is that we should gather together to find the solution because one person alone can’t find the solution.”

-- Statement of Petitioner G.S., age 17 (Exhibit B)

“I don’t know what is in the water, so that’s why I am afraid of it”

-- Statement of Petitioner M.Ca., age 15 (Exhibit C)

“When they are burning the trash it gives me a headache and it makes my eyes water.”

-- Statement of Petitioner M.Ch., age 11 (Exhibit D)

“When it rains, the trash goes into the canals and stuff the canals and then goes out and into the houses ... [the smoke from the trash fires are] a problem for me because it gives me a headache and I can’t escape/avoid the problem.”

-- Statement of Petitioner N.I., age 15 (Exhibit E)

“When it rains trash gets inside of the houses ... I would like Cité Soleil to find help so we can clean our area and everywhere can be clean.”

-- Statement of Petitioner P.J., age 16 (Exhibit F)

“The environment is killing these kids not only physically but it’s killing their dreams, it’s killing their potential, it’s killing their ability to be somebody tomorrow.”

-- Expert Declaration of Dr. Mackenson Saint Fort (Exhibit L)

Question: “In your expert opinion, are the significant cases of infectious diseases, long- term respiratory conditions (such as asthma, lung cancer, etc.), and general high mortality rate for those living in Cité Soleil directly caused by massive accumulation of waste and the improper/unmonitored methods of its removal through general trash fires?”

Answer: “Yes.”

-- Expert Report of Dr. Nadège Bélizaire (Exhibit G)

Question: “In your expert opinion, are the significant cases of infectious diseases, long- term respiratory conditions (such as asthma, lung cancer, etc.), and general high mortality rate for those living in in Cité Soleil directly caused by massive accumulation of waste and the improper/unmonitored methods of its removal through general trash fires?”

Answer: “Yes.”

-- Expert Report of Dr. Kobel Dubique (Exhibit H)

“[The trash] comes from other areas and different parts of town, because Cité Soleil is downstream and these are upstream and they feed Cité Soleil with all the waste ... Cité Soleil, this

neighborhood, is a dump site. They collect the waste everywhere ... and they bring it and throw it away in Cité Soleil. And there is a soccer field next door and people are living there and children should be playing there.”

-- Testimonial of SAKALA Intern Witness #1 (Exhibit M)

“Right now we don’t know what can be done and that’s why we are looking for help. We really want the government to do something for us but you know sometimes they are not concerned with this problem. We have seen that canal full of trash our whole lives and we want it to change. That is why we are asking for help right now because this is not good for us and it should be done.”

-- Testimonial of SAKALA Intern Witness #2 (Exhibit N)

“Sometimes there is so much smoke that it makes me sick with bad headaches, deep fatigue, and body aches that takes a day or more to abate ... Then just over the wall, take a look at the trash canal. Maybe walk across it. Get your shoes dirty. Feel a little nervous that maybe it can’t hold your weight and you might sink in the trash and sewage. Then imagine ... this is your life now.”

-- Testimony of Volunteer/Visitor Witness Nancy Young (Exhibit O)

“The socio-political crisis of the country has negative impacts on the functioning of the Haitian judicial system.”

-- Expert Report of Me. Patrice Florvilus (Exhibit I)(Translation by Legal Representatives)

“Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being.”

-- UN, Stockholm Declaration of the United Nations Conference on the Human Environment, June 16, 1972, UN Doc. A/CONF.48/14/Rev. 1

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STATEMENT OF THE CASE

This Petition requests that the Inter-American Commission on Human Rights intervene to redress gross violations of the rights of children in Cité Soleil, Haiti to dignity, a healthy environment, and judicial protection. The Petitioners are Children of Cité Soleil and SAKALA, a community center established to provide safe harbor for children in Cité Soleil.

By bringing toxic trash from Port-au-Prince's three million residents to the residential district of Cite Soleil including SAKALA's environs, by failing to dispose of it in a sanitary way consistent with international and national standards, by failing to take appropriate action to avoid flooding, by allowing the canals to fill with a toxic stew, by failing to provide waste management services to Cite Soleil while it provides them to neighboring communities, and by allowing the trash to be burned on a daily basis where children live and play, the Government of Haiti has failed to provide safe environmental conditions for Petitioners and others similarly situated. Instead, the Government uses the district as a repository for toxic waste, exposing petitioners to harms to their dignity, to their health, and to their lives. By failing to establish a functioning judicial system, the Government of Haiti has violated petitioners' rights to judicial recourse.

In Cite Soleil, industrial, commercial, household, and medical waste and trash collects daily in seven large canals that run through Cité Soleil. The canals have long been overwhelmed with trash, which spreads everywhere. Making matters worse, because there is nowhere for the canal water to go, the district floods with even the slightest precipitation, inundating homes, schools and businesses with toxic slurry. The only way to reduce the volume is to try to burn it in place, producing a constant haze of toxic smoke throughout Cité Soleil, enveloping the Children of SAKALA. The Government of Haiti has failed the residents of Cite Soleil, even as funds destined

for social development projects have been diverted, and the courts are closed, leaving Petitioners more desperate and with no recourse within their own country. The resulting adverse environmental conditions most acutely affect children. As explained below, Children Petitioners suffer from chronic and sometimes fatal diseases, which Petitioners' experts conclude are preventable and are caused by these environmental conditions.

These conditions violate the American Convention on Human Rights, including the Rights of the Child (Article 19), the Right to Dignity (Article 11), the Right to Live in a Healthy Environment (Articles 4, 26), and the Right to Judicial Protection (Article 25). Haiti is subject to the obligations of the Convention.

Petitioners request that the Commission declare Haiti in violation of the American Convention, hold a public hearing, and take other appropriate action to protect these children. Petitioners also request that the Commission direct Haiti to take Precautionary Measures to remedy the serious and irreparable harm caused by the buildup of trash in the canals, roads and fields in the immediate vicinity of SAKALA.

The Petition has six parts. Part I introduces the Petitioners, including affected children and SAKALA, the recreation center of which they are members.

Part II details the adverse environmental conditions to which the Petitioners are subjected, including short- and long-term health ailments that result from exposure to contaminated water and polluted air. It illustrates the conditions with photographs and identifies instances of violations through first-hand accounts from the affected children who attend SAKALA, residents, legal and medical experts, and others.

Part III demonstrates that the Petition is admissible because it involves proper parties, is timely, and is not barred. It further explains that Petitioners need not exhaust domestic remedies because it is impossible for them to do so.

Part IV explains that these conditions violate the American Convention, including the general obligations of Member States to comply with the provisions of the Convention (Article 1), as well as the Rights of the Child (Article 19), the Right to Dignity (Article 11), the Right to Life including a Healthy Environment (Articles 4 and 26), and the Right to Judicial Protection (Article 25).

Part V demonstrates that Precautionary Measures are proper in the circumstances of this case because present circumstances present serious and irreparable injury.

Part VI requests that the Commission find the Petition admissible, investigate the matter, hold a public hearing, and provide other relief, as requested.

Haiti is responsible for the violation of the rights of children to dignity, a healthy environment, and judicial protection. Neglected and abandoned by their government, the Children Petitioners suffer from preventable and treatable diseases that recur and that threaten their health, their lives, and their dignity. These children are especially vulnerable to irreparable harm given their poverty and their youth: their developing minds and bodies place them at greater risk for both short-term and long-term medical and psychological problems caused by prolonged exposure to these conditions. Petitioners contend that Haiti is responsible through its action, failure to act, and acquiescence respecting various aspects of the Convention detailed herein.

This Petition is in compliance with Articles 31 (exception to exhaustion), 32 (exception to time period) and 33 (has not been submitted to another international tribunal or settlement proceeding). The Petitioners are the beneficiaries of the Request for Precautionary Measures. The Children-Petitioners request that their identity be withheld due to their minority.

To protect the rights of the Children, the Commission should intervene accordingly to:

1. Declare this Petition admissible;

2. Declare Haiti in violation of the American Convention on Human Rights;
3. Issue Precautionary Measures;
4. Visit with the Petitioners and community victims in Cité Soleil;
5. Hold a hearing during a public session regarding this Petition;
6. Recommend such other remedies as the Commission deems appropriate, including, but not restricted to, having Haiti:
 - a. Halt violations of the Convention;
 - b. Investigate the environmental conditions of Cité Soleil specifically as related to the canals, landscape, and trash dump sites;
 - c. Adopt and implement preventative measures that, at a minimum:
 - i. Relocate the city's trash dump out of Cité Soleil to a place separate from human habitation;
 - ii. Require all commercial and residential disposal of trash in Cité Soleil cease until it comports with appropriate international standards;
 - iii. Provide access to effective medical services, including but not limited to hospitals, health centers, and dispensaries, for the children of Cité Soleil;
 - d. Install a functioning wastewater treatment system;
 - e. Make reparation for the harm caused;
 - f. Institute legal reform, and/or;
 - g. Require the adoption of other measures or actions by Haiti, and,
7. Provide any other relief the Commission deems appropriate.

In sum, the Petitioners respectfully request that the Commission intervene to ensure that the children of Cité Soleil are treated as human beings of equal worth and deserving of dignity.

I. PETITIONERS

The Petitioners are six children who live in Cité Soleil and participate in the SAKALA Community Center, a seventh Petitioner.

A. The Children

The Children Petitioners are six boys and girls who are members of SAKALA who are individually, extensively, and irreparably harmed by the environmental conditions in Cité Soleil, as described below. Names and identifying information have been omitted to maintain privacy and guard against reprisal. Additional information can be made available upon request for the Commission's *in camera* review. The Children Petitioners are:

a. M.Ch., age 11, who attends school at Project Doulya, St. Jean de Bosco. M.Ch. started at SAKALA in 2020 and enjoys participating in Earth Fridays, afternoons devoted to ecological sustainability. M.Ch. needs to find and place bricks, stones, or large items on top of trash (“take blocks”) to cross the street because otherwise the street is impassable.¹ M.Ch. says that the burning trash gives “me a headache and it makes my eyes water.”²

b. M.Ca., age 15, had to leave Cité Soleil in mid-2020 due to the security and safety situation but will return as soon as conditions permit; M.Ca. continues to be a member of SAKALA. M.Ca. is a champion chess player who has been attending SAKALA since the age of 10. M.Ca. enjoys SAKALA's garden and recycling program. M.Ca. is “afraid of the water because it is dirty water. It is full of mud and trash.”³ M.Ca. fears going outside and sometimes fears attending school because they do not “know what is in the water.”⁴

¹ M.Ch., Exh. D, App. at 7.

² *Id.*

³ M.Ca., Exh. C, App. at 5.

⁴ *Id.*

c. N.I., age 15, likes to play chess, volleyball, and checkers. N.I. likes SAKALA because “it puts us on our way so we can help others, we can work with others to make things happen.”⁵ But N.I. notices “a lot, a lot” of trash in Cité Soleil and says that the burning of the trash causes headaches. N.I. feels badly because they feel unable to “save the kids” from polluted water that constantly inundates homes where children live.⁶

d. E.D., age 16, lives and attends school in Cité Soleil. E.D. enjoys playing football and learning. The burning trash sickens E.D.: “[I]t makes me sick, I can’t breathe well with the smell.”⁷

e. P.J., age 16, is an excellent football player and likes learning new things at SAKALA. P.J. says that the trash “is a problem ... because people can’t walk on trash” and “[w]hen it rains trash gets inside of the houses.”⁸ P.J. wishes that the neighborhood would be cleaner and gets frustrated when the canals flood into the home where P.J. lives and leaves toxic and contaminated debris behind, which must then dry before it can be removed, severely affecting P.J.’s and P.J.’s family’s health.⁹

f. G.S., age 17, is the captain of “Earth Fridays” and dreams of becoming an agronomist. G.S. explains how they must “search for some blocks” to cross the flooded and trash-strewn street.¹⁰ G.S. says that the burning trash causes them to have breathing problems, and that the flooding brings mud, dirt and trash behind where G.S. lives, harming them and their family.¹¹

⁵ N.I., Exh. E, App. at 8.

⁶ *Id.*

⁷ E.D., Exh. A, App. at 3.

⁸ P.J., Exh. F, App. at 9.

⁹ *Id.*

¹⁰ G.S., Exh. B, App. at 4.

¹¹ *Id.*

B. SAKALA

SAKALA – Sant Kominotè Altanatif ak Lapè (“Community Center for Peaceful Alternatives”) – is a community center in the heart of Cité Soleil. SAKALA is registered as a non-profit organization in Haiti and in the United States.¹² It receives funding from grants and donations. It has a staff of 11 people and a junior staff of 8 people. It offers programs around three axes: Sports, Education and Agriculture.¹³

Co-founded by Mr. Daniel Tillias, SAKALA opened in 2006 and expanded significantly in response to the 7.0 magnitude earthquake that ravaged the nation on 12 January 2010. SAKALA provides a safe outlet for children, as well as healthy meals, access to computers and homework support, and other extra-curricular activities such as sports programs for boys and girls including football, volleyball, basketball, baseball, table tennis, and dance, as well as bridge, board games and chess.¹⁴ SAKALA has a sustainable garden, an athletic field, a multi-purpose room, and an extensive library as well as a kitchen and eating area. Its staff provides counseling to help children manage personal challenges associated with growing up in adverse environmental conditions.¹⁵ SAKALA is an “alternative for the kids – an alternative from gang recruitment, the lack of educational opportunity, the despair from the piles of trash that burn on their faces or the flooding canal kicking them out from their own homes.”¹⁶

¹² See generally, <http://www.sakala-haiti.org/staff>. See also *CNN Hero Daniel Tillias*, CNN, <https://www.cnn.com/videos/world/2019/08/01/cnnheroes-tillias-mixed.cnn#:~:text=In%20an%20area%20of%20Haiti,children%20can%20learn%20and%20thrive>.

¹³ See generally, <http://www.sakala-haiti.org/mission>; see also Declaration of Felder Jean Paul, Exh. K, App. at 31.

¹⁴ Tillias, Exh. J, App. at 27.

¹⁵ *Id.*, App. at 30.

¹⁶ *Id.*, App. at 27.

SAKALA provides education and engagement to promote environmental stewardship. It has developed arts and entrepreneurial projects around recycled material that staff salvage from the local trash heaps.¹⁷ SAKALA is also internationally renowned for its community garden, which is maintained by the children and members of the community who grow fresh vegetables and plants by using recycled material.¹⁸ The garden is the largest community garden in all of Haiti.¹⁹



Figure 1. The largest Community Garden in Haiti is at SAKALA. Note: All images by Legal Representatives.

SAKALA creates a positive developmental outlet for the children of the community.²⁰ It is a “Paradise in Hell.”²¹ N.I. says: “SAKALA is doing a great job with education, sports, and with the environment. I like SAKALA because it puts us on our way so we can help others, we can work

¹⁷ Nancy Young, *Back to School at SAKALA, News for a Better World from the SAKALA Community Center in Cité Soleil, SAKALA Haiti* (Sept. 16, 2020), <https://sakalahaiti.substack.com/p/back-to-school-at-sakala>.

¹⁸ Allie Torgan, *Creating an Oasis of Hope in One of Haiti’s Most Dangerous Neighborhoods*, CNN (Aug. 1, 2019), <https://www.cnn.com/2019/08/01/world/cnnheroes-daniel-tillias-sakala/index.html>.

¹⁹ Rashmee Roshan Lall, *Haiti Slum Blooms Into Urban Oasis*, The Guardian (Jun. 3, 2014), <https://www.theguardian.com/global-development/2014/jun/03/haiti-garden-project-community-slum-enterprise-Cité-soleil>.

²⁰ M.Ca., Exh. C, App. 5; E.D., Exh. A, App. at 3; N.I., Exh. E, App. at 8.

²¹ Jean Paul, Exh. K, App. at 31.

with others to make things happen”²² while P.J. is “very happy [to be] part of SAKALA because there are some things I didn’t know before and when I came to SAKALA I learned.”²³ Some of the Children Petitioners noted that they appreciated receiving nurturing from SAKALA that is essential to their growth. For example, M.Ch. “like[s] how SAKALA teaches the kids, trains the kids, and to let them know how they’re doing.”²⁴ E.D. puts it this way: “SAKALA guides us, takes our hands and walks with us and helps us in everything that we do.”²⁵



Figure 2. At SAKALA, children and adults describe their ambitions on the Wall of Dreams; some say they want to be doctors, others engineers, lawyers, and nurses.

SAKALA’s location, adjacent to two drainage ditches, on a slight elevation upstream, makes it prone to collecting water. Because the canals are clogged with trash, they flood whenever there is rain, filling SAKALA’s central field with dirty and contaminated water. SAKALA has neither enough staff nor enough proper equipment to empty the water without the children’s help. Thus, the children need to stop their schoolwork or their play to work on cleaning the space. Their hands and feet are exposed to the contaminated water each time the rains come.

SAKALA’s contact information is:

²² N.I., Exh. E, App. at 8.

²³ P.J., Exh. F, App. at 9.

²⁴ M.Ch. Exh. D, App. at 7.

²⁵ E.D. Exh. A, App. at 3.

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²⁶ Legal representatives acknowledge the assistance of students in the Dignity Rights Practicum at Widener University Delaware Law School, Wilmington Delaware, U.S.: Alicia Dugger, Dominic Mallon, and Jessica Ott for work on the Petition (Fall 2020) and Paige DeBell, Joshua Diczek, Uri Simms, Chloe Hunter, and Madhuri Ray, for foundational research (Fall 2019).

II. FACTUAL BACKGROUND

This section describes in detail the alarming adverse environmental conditions that envelop the Children Petitioners and cause significant and irreversible adverse physiological and psychological effects that violate their equal and inherent dignity as recognized under law.

A. The Physical, Social, and Economic Geography of Cité Soleil

Poverty is endemic in Haiti.²⁷ As the World Bank reports, “[a]ccording to the Human Capital Index, a child born today in Haiti will grow up to be only 45% as productive as they could be if he/she had enjoyed full education and health.”²⁸ The World Food Program estimates that 50% of all Haitians - more than 5 million people - are malnourished, including 22% of children who are chronically malnourished, and that two-thirds of the population lack access to adequate sanitation.²⁹

The community-specific wealth gap in Haiti is significant. The poorest 45% of the nation’s citizens live off less than US\$1.25 per day.³⁰ About 25% of Haitian children aged 5 to 17 live separated from their parents while nearly 300,000 children throughout the country aged 5 to 14 are classified as “child domestic workers.”³¹ Conditions are worsening day by day, as detailed below.

Haiti’s political history and its geography have left it vulnerable to frequent and catastrophic environmental disasters. Haiti is vulnerable to hurricanes, floods and earthquakes:³² on

²⁷ Haiti is the poorest country in the Hemisphere and the fifth poorest country in the world. "Haiti is the poorest country in the Western Hemisphere, with a Gross Domestic Product (GDP) per capita of US\$797 and a Human Development Index ranking of 169 out of 189 countries in 2019." The World Bank in Haiti, <https://www.worldbank.org/en/country/haiti/overview>.

²⁸ *Id.* The average Haitian citizen earns less than \$2,000 (US) annually. *Id.*

²⁹ "Hunger Crisis in Haiti," World Food Program, <https://www.wfpusa.org/countries/haiti/>.

³⁰ United Nations Development Programme (UNDP), *2013 MDG report: Haiti, A New Look*. (June 26, 2014).

³¹ Human Rights Watch, *World Report 2014: Haiti, Events of 2013* (2014), <https://www.hrw.org/world-report/2014/country-chapters/haiti>. See also Pan American Development Foundation (PADF), *Urban Planning For Resilience In Haiti*. (July 6, 2017), <https://padf.squarespace.com/projects/urban-planning-for-resilience-in-haiti>.

³² Central Intelligence Agency (CIA), *The World Factbook: Haiti*, <https://www.cia.gov/the-world-factbook/countries/haiti/>.

average, Haiti is devastated by a major hurricane every seven years.³³ Moreover, a long national history of deforestation, partly in payment of reparations demanded by France in exchange for freedom, has led to widespread soil erosion, which intensifies the damaging effects of the wind and rain that put Haitian citizens at constant risk.

Population pressures are worsening. Port-au-Prince is the nation's capital, a city whose population of 2,774,000 has doubled in the last 25 years³⁴ and now constitutes approximately one-third of the nation's entire population. Population density in the city is among the highest on the globe at 34,270 per square kilometer (88,703 people per square mile),³⁵ compared with a world average population density of 25 people per square kilometer and a national average of 398 people km².³⁶

Residents of Port-au-Prince face many additional challenges on a daily basis. Port-au-Prince is one of the most dangerous cities in the world. Air quality is among the worst in the world.³⁷ Housing is scarce, overly crowded and often dangerously unsanitary.³⁸

Port-au-Prince is the largest capital city in the world without a centralized sewage system.³⁹ Most residents use outhouses or whatever is convenient because there is no sewage system.⁴⁰ Fecal matter mixes with trash and rainwater, contaminating what might otherwise be drinking water, and making every flood toxic to everyone in its path. As a result, according to Dr. Mackenson Saint Fort, “[t]he contamination of the water table in this commune by the faeces which arrive there

³³ Pan American Development Foundation (PADF), *Urban Planning For Resilience In Haiti*. (July 6, 2017), <https://padf.squarespace.com/projects/urban-planning-for-resilience-in-haiti>.

³⁴ <https://www.macrotrends.net/cities/21133/port-au-prince/population> .

³⁵ *Capital Facts for Port-au-Prince, Haiti*,

<https://www.worldscapitalcities.com/capital-facts-for-port-au-prince-haiti/>

³⁶ *Id.*

³⁷ *Capital Facts for Port-au-Prince, Haiti*, <https://www.worldscapitalcities.com/capital-facts-for-port-au-prince-haiti/>

³⁸ Orville F. Grimes, *Housing for Low-income Urban Families: Economics and Policy in the Developing World* (1976).

³⁹ Rebecca Hersher, *You Probably Don't Want To Know About Haiti's Sewage Problems* (July 29, 2017),

<https://www.npr.org/sections/goatsandsoda/2017/07/29/537945957/you-probably-dont-want-to-know-about-haitis-sewage-problems>.

⁴⁰ *Id.*

either by runoff, or by non-compliant latrines or quite simply because the population does not have any, makes the water unsuitable for safe consumption.”⁴¹

Even in Port-au-Prince, Cité Soleil -- the district where Petitioners live -- stands out. It is one of the poorest, most crowded, most dangerous, and most polluted places on Earth. Much of it sits below sea level and it therefore floods easily; it used to be a wetland but was drained and paved when the now-abandoned factories were built. According to Petitioners’ expert Dr. Nadège Bélizaire, a medical doctor who is the Medical Director at Haiti Clinic in Cité Soleil, “Cité Soleil is an extremely impoverished and densely populated community of an estimated 300,000 to over 500,000 residents, the overwhelming majority of whom live on less than \$1 (USD) per day and cannot afford to eat every day. Cité Soleil is the largest and most dangerous slum in Haiti, literally known as a Red Zone due to level of insecurity.”⁴²

Cité Soleil was originally built for 80,000 people to support local factories.⁴³ Those jobs are long gone, leaving unemployment and toxic debris in their place. Daniel Tillias, who was born and raised in Cité Soleil observes, “[t]he poor people who lived in Cité [Soleil] were the most marginalized in the city. They were either encouraged to migrate to the city or were just tricked into leaving their land to come looking for a better life and sometime lost it by looking so hard.”⁴⁴

Children bear the disproportionate burden of the cumulative impact of so many challenges in Cité Soleil.⁴⁵ Mr. Felder Jean Paul – born and raised in the district – reflects: “[In] our community kids are facing a lot of challenges, like education problems, health problems, sexual abuse, and so on. The children are not living in dignity and respect. Their right is violated all the

⁴¹ Expert report of Dr. Mackenson Saint Fort, Exh. L, App. at 33.

⁴² Expert Report of Dr. Nadège Bélizaire, Exh. G, App, at 11.

⁴³ Tillias, Exh. J, App. at 26: “The main purpose of developing Cité Simone at that time was to have accessible labor near to a new industrial area of sweatshops for imported goods, located between the airport and the shore. ... In its early days, this new community was populated by people who were looking for a new place to live, or the only place that they could afford after arriving in Port-au-Prince.”

⁴⁴ *Id.*

⁴⁵ Bélizaire, Exh. G, App, at 11.

way. It is the base of a lot of problem[s] they are facing. No school, no water, no food. Tons of trash, tons of dirty water, mosquitoes, and microbes. People just try anything to protect themselves.”⁴⁶

The scars the children bear from growing up in these conditions do not heal. Growing up, Mr. Tillias says, “I could experience first-hand what it is to have some and not having much or have nothing at all. I understood very early as a child that for some people what they were facing everyday was not justice. There was no dignity for many people there who lack so much and had to live in conditions that I would qualify even so young as unjust.”⁴⁷ Mr. Jean Paul says: “It was a terrible experience for me and my family because personally I was victim to the bad [conditions] in Cité Soleil.”⁴⁸

The Covid-19 pandemic has, of course, only made matters worse. According to the World Bank, “[t]he pandemic is expected to disproportionately affect the poor and most vulnerable populations, including women, reinforcing existing social inequalities. Economic growth is expected to decline by at least 3.1% of GDP in 2020 as the service sector contracts, supply chains are disrupted, and remittances fall as the global economy heads into recession. The fiscal deficit is expected to widen to more than 6% of GDP (from a pre-COVID-19 forecast of 3%) and inflation is expected to reach over 20%.”⁴⁹ The World Food Program estimates that political unrest pushed one million Haitian people into hunger in 2019,⁵⁰ though it is impossible to know the full impact on life, health, and human dignity that the pandemic is causing.

Adding to Cité Soleil’s challenges is crushing environmental contamination, discussed next.

⁴⁶ Jean Paul, Exh. K, App. at 31.

⁴⁷ Tillias, Exh. J, App. at 26.

⁴⁸ Jean Paul, Exh. K, App. at 31.

⁴⁹ The World Bank in Haiti, <https://www.worldbank.org/en/country/haiti/overview>

⁵⁰ World Food Program, <https://www.wfpusa.org/countries/haiti/>, (“The protests quickly turned violent and have continued. The precarious security situation combined with road blocks and political gridlock have led to a spike in hunger and made it difficult to deliver humanitarian aid. The price of staple foods has increased by more than 22 percent in the last year while agricultural production has dropped by about 12 percent”).

B. Environmental Contamination

The root of Cité Soleil's alarming environmental conditions is the importation of untreated and unmanaged trash, which contaminates the water and pollutes the air.⁵¹

1. Trash

Trash is the landscape of children's lives in Cité Soleil. It is on the ground, it is in the fields, it is in the water, it is in the streets, and it comes inside when it rains. Children can play nowhere but on mounds of trash and they walk past, over, and along the trash mounds going to and from school. They see trash everywhere they look. It infiltrates their bodies, entering their lungs, infecting their eyes, and ruining their belongings. And it makes them sick.



Figure 3. The canal runs past SAKALA, along people's houses where Children Petitioners live.

⁵¹ Tillias, Exh. J, App. at 28.

Children Petitioners report that the trash they see every day harms them in myriad ways. For example, G.S. says: “the way to go from my home to SAKALA, there is a lot of trash. When the rain comes it brings a lot of trash, a lot of water in the streets.”⁵² M.Ca. says that on their way to SAKALA, “there was a lot of water and so when I came to SAKALA I had to put my feet in the water, in the mud, in the trash.”⁵³ M.Ch explains that walking around Cité Soleil, “I see trash, I see dirty water” and that they need to “take blocks” -- to find pieces of stone or pavement to lay down across the canal so they can walk across⁵⁴ because, as P.J. says, “people can’t walk on trash.”⁵⁵ The constant flooding makes even the children’s homes an unsafe place to stay. P.J., recounts that “when it rains trash gets inside the houses. ... When water gets into my house I [have to get] it out. We have to repeat that many times[,] so if after many tries we see the water won’t stay out, we [are forced to] just leave until it dries by itself.”⁵⁶

It needn’t be this way. The trash in Cité Soleil accumulates for political reasons and it is not removed for political reasons. “The [national] government provides barely any services in Cité Soleil and there is no sanitation program, which affects the health of the residents [because] [t]rash is never collected and removed from the streets and canals... and the residents are not educated on the [safe] disposal of trash,”⁵⁷ explains Petitioners’ expert Dr. Bélizaire.

This neighborhood of hundreds of thousands of impoverished human beings is the resting ground of the nation’s trash dump. It arrives in two primary ways. First is informally, by canal. Trash is carried here through seven canals that flow to Cité Soleil from elsewhere in Port-au-Prince

⁵² G.S., Exh. B, App. at 4.

⁵³ M.Ca., Exh. C, App. at 5.

⁵⁴ M.Ch. Exh. D, App. at 7. *See also* G.S. Exh. B, App. at 4: “To deal with that is that if I am trying to cross I search for some blocks and I just cross on the blocks to make it easier for me.”

⁵⁵ P.J. Exh. F, App. at 9.

⁵⁶ *Id.*

⁵⁷ Bélizaire, Exh. G, App, at 11.

whenever it rains.⁵⁸ Second is formally, by transport directly by the Government. In fact, the Service National de Gestion de Résidus Solides (the National Service for Solid Waste Management, or SNGRS) makes direct deliveries of trash to an open, unregulated trash dump in Cité Soleil, near where Children Petitioners live.⁵⁹



Figure 4. Children dangle home-made toy trucks on strings, as they try to climb down a hill of trash across the road from SAKALA

⁵⁸ United Nations Central Emergency Response Fund (UN CERF), *Haiti: Executive Summary* (July 19, 2007), https://cerf.un.org/sites/default/files/resources/Haiti_2006_110308%20New%20Format.pdf. See also Expert Report of Dr. Kobel Dubique (“Dubique”), Exh. H at 12.

⁵⁹ Milo Milfort, *Who Benefits from the Poor Management of the Truitier Landfill?*, *Haiti Liberté* (Apr. 4, 2018) <https://haitiliberte.com/who-benefits-from-the-poor-management-of-the-truitier-landfill/>.

Dr. Kobel Dubique, Country Director for Haiti Clinic, was born in and grew up in Cité Soleil. Dr. Dubique explains that “[e]very day the minimal quantity of trash produced in Port-au-Prince is estimated approximately to 6,000 m³ while only 30% is collected by the Haitian solid trash office (SGNRS) because of lack of removal means. [The m]ajor part of this 30% will be deposited to Truitier in Cité Soleil (the biggest discharge site of 250 hectares) and the rest will take the routes of canals and the capital roads to end up again in Cité Soleil. In conclusion, trash takes formal and informal routes to arrive to Cité Soleil.”⁶⁰



Figure 5. View from rooftop at SAKALA. The canal is completely clogged with trash.

⁶⁰ Dubique, Exh. H, App. at 15.

While the SNGRS deposits waste in Cité Soleil, it does not remove trash *from* Cité Soleil, but leaves it exposed to people there.⁶¹ Some trash is removed from upper-middle-class neighborhoods under an Order from the government that services most of the city, except for Cité Soleil.⁶² Despite the Order, roughly 25% of even upper-middle-class neighborhoods within Port-au-Prince lack a proper waste collection service.⁶³ Meanwhile, an overwhelming 93% of low-income families living amongst the most impoverished neighborhoods of Port-au-Prince do not have any formal waste collection service at all.⁶⁴ One resident of Cité Soleil explains: “Before ... there used to be some big loaders and tractors coming to clean the canal, but it has been more than 10 years now since then and Cité Soleil has been completely neglected and forgotten.”⁶⁵

The SNGRS is beset by a lack of funding, failure to maintain its equipment, and inconsistent management, which are compounded by predictably frequent natural disasters.⁶⁶ For example, after the 2010 earthquake, the SNGRS was only able to collect 20% of the waste generated within Port-au-Prince before having to stop due to equipment failures. In more than a decade since this earthquake, the government has utterly failed to resolve mechanical issues, so that devastation from the earthquake was left untouched and compounded by hourly imports of waste.⁶⁷

The trash dump the Government uses in Cité Soleil is itself a giant hazard. It is unmonitored, unregulated, uncovered, and open to public access.⁶⁸ It attracts pigs, rodents, and other undesirable animals. Alongside the animals are people who salvage through this open trash

⁶¹ Dieu Nalio Chery, *Haitians scour the country's largest trash dump*, AP News (Sept. 12, 2018), <https://apnews.com/50c5062763b64fe297b643815fbd6568>.

⁶² A. Bras, C. Berdier, et al., *Problems and current practices of solid waste management in Port-au-Prince (Haiti)*, 29 Waste Management 2907-09 (2009).

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Interview with Witness #1, Exh. M, App. at 45.

⁶⁶ Kestride Estil, *From Waste To Housing: Using Plastic Waste To Build Sustainable Housing In Haiti* (December 2019) (unpublished Master of Urban and Regional Planning thesis, Florida Atlantic University, on file with College for Design and Social Inquiry).

⁶⁷ *Id.*

⁶⁸ *Id.*

dump for scrap to reuse or sell.⁶⁹ Former Cité Soleil resident Billy Lafalaise, for example, recounts that by the time he was 16 years old, he had “lost count” of the number of abandoned corpses he’s seen at or around the dumping site.⁷⁰



Figure 6. Animals pick through trash near SAKALA.

Accordingly, those living in Cité Soleil are left to rely upon the volunteer efforts of local leaders who take it upon themselves to organize basic essential neighborhood programs such as recycling and trash and waste removal. SAKALA is one such initiative. But these efforts are insufficient to counter the continual onslaught of environmental insults endured by the community and its residents.

The combination of government programs that bring trash *to* the population centers in Cité Soleil, and the absence of programs that manage the waste or remove it *from* where people live,

⁶⁹ Dieu Nalio Chery, *Haitians scour the country’s largest trash dump*, AP News (Sept. 12, 2018), <https://apnews.com/50c5062763b64fe297b643815fbd6568>.

⁷⁰ Joe Parkin Daniels, *Learning brings hope to Haiti’s most notorious slum*, The Guardian (Oct. 4, 2019, 2:00 PM), <https://www.theguardian.com/global-development/2019/oct/04/words-not-guns-learning-brings-hope-to-haiti-slum-cite-soleil>.

leaves the landscape of Cité Soleil covered with trash, violating Petitioners' rights as children to dignity and to a healthy environment.

2. Contaminated Water

Seven large drainage canals run directly through Cité Soleil. They were designed by city planners decades ago before the establishment of Cité Soleil to direct stormwater and trash away from the higher suburbs of Port-au-Prince into the Bay of Port-au-Prince.

Cité Soleil was then established and grew exponentially over the ensuing decades. Port-au-Prince grew, too, and with it, trash, all of which ends up in Cité Soleil. Many people live alongside these canals: “[t]he wall of my house was part of the canal,”⁷¹ says Mr. Jean Paul, describing his childhood home.

The canals are perpetually clogged with trash:

“Since the creation of Cité Soleil, because of its location downstream on the coast, up to 7 huge canals that are 10-feet to 20-feet-wide and almost 2 miles long lead to the ocean. These canals that were built to channel used water to the ocean can no longer serve this purpose. Over the years they have become clogged with waste; now they are only a huge long reservoir fill[ed] with aggregates, plastic, and trash. All the water from upstream cities like Delmas, Pétion Ville, and Tabarre is mixed with solid waste from the street.”⁷²

Making matters worse, whenever it rains, water backs up and floods the streets and homes of Cité Soleil⁷³ in a “mixed salad of trash.”⁷⁴ Mr. Tillias describes it this way:

With the first drop of rain anywhere in these cities, everything flows directly to the ocean through Cité Soleil[,] but because of the clogged canals, the waste does not find its way to the ocean but makes its way instead to the tables and the beds of the households where children live, chasing them from their own rooms for hours and sometime days until the water recedes. The canals are no longer a channel to let thing[s] go through but more of a reservoir to hold a lot of solid waste.”⁷⁵

⁷¹ Jean Paul, Exh. K, App. at 31.

⁷² Bélizaire, Exh. G, App, at 28.

⁷³ See N.I. Exh. E, App. at 8: “When it rains, the trash goes into the canals and stuff the canals and then goes out and into the houses.”

⁷⁴ Dubique, Exh. H, App. at 15.

⁷⁵ Tillias, Exh. J, App. at 28.

Even with slight precipitation, the trash in the canals overflows and fills the streets; when it pours, the dirty water floods into their houses, filling their homes with fetid water containing plastics, organic matter, medical debris, and human waste, resting in pools as it attracts malarial mosquitoes and other pests.⁷⁶



Figure 7. Contaminated water from trash-filled canal rises to SAKALA's back door

When it rains, the canals easily overflow and cause the trash and human waste to flow “inside the houses and people have to sleep outside or spend days trying to clean up all the mess that the trash and the water brought.”⁷⁷ Streets in turn are nearly impassable: “[t]he people of Cité

⁷⁶ E.D., Exh. A, App. at 3; G.S., Exh. B, App. at 4; M.Ca., Exh. C, App. at 5; P.J., Exh. F, App. At 9.

⁷⁷ Interview with Witness #2 (“Witness #2), at SAKALA September 3, 2019, Exh. N, App. at 46.

Soleil are left on their own with this problem, as they can not remember the last time there was a real cleaning of the approximately 2 miles of these canals that are one... with the street.”⁷⁸

It does not even have to rain *in* Cité Soleil for this flooding to occur because “when it rains in other cities or up in the mountains, [Cité Soleil residents] just wake up and see all the trash is coming down with water but [they] don’t know where it is coming from.”⁷⁹ The continuing flood of dirty and hazardous conditions throughout Cité Soleil make the immediate area around SAKALA especially dangerous for children and others who go there.⁸⁰

Petitioners’ expert, Dr. Bélizaire, concludes that these conditions lead to compounding hardships:

“There are also water contamination issues caused by the frequent flooding. For instance, when it rains, the rainwater generally floods the houses and the streets, causing disease. There is also widespread malnutrition and respiratory illnesses such as acute asthma, caused by burning of the waste and nearby industries. I treat other conditions like diarrhea, malaria, typhoid worms, and dengue fever. There are virtually no medical clinics or other healthcare providers except through non-profit organizations like Haiti Clinic, and child mortality is very high.”⁸¹

3. Toxic Fumes

Trash accumulates in the canals, day-by-day, hour-by-hour. It takes no breaks and knows no holiday. The waste holds hazardous metals, plastics, and chemicals; thus, it produces poisonous smoke that is harmful to inhale.⁸² Because the Government takes no responsibility for the accumulation of trash, the only way to manage its volume is for those in Cité Soleil to burn it in huge piles:

⁷⁸ Tillias, Exh. J, App. at 28.

⁷⁹ Witness #2, Exh. N, App. at 46.

⁸⁰ Tillias, Exh. J, App. at 28-29.

⁸¹ Bélizaire, Exh. G, App, at 11.

⁸² G.S., Exh. B, App. At 2; C.Ma., Exh. C, App. at 3; M.Ch., Exh. D, App. at 5; and N.I., Exh. E, App. at 6.



Figure 8. Trash burns night and day by the entrance of SAKALA

“Very often, the solutions to mitigate the disaster of the poor management of this waste is actually burning everything. But that creates an even bigger threat on what people (and mostly children) have to breathe there. As the houses are on the canals or very close to them, disposing of the waste in this way itself becomes a threat to public health in the entire community and the communities nearby.”⁸³

While the toxic smoke sickens everyone, it affects children most of all. Petitioners’ expert, Dr. Dubique, elaborates: “To remove or destroy the trash, the residents burn it, which can exacerbate asthma, causing acute asthma episodes, and produce acute distress respiratory issues and death mostly in children who live in houses where there is no space and enough rooms to bring in fresh air.”⁸⁴

The pervasive trash throughout the neighborhood, the incessant flooding, and the toxic fumes define the landscape of these children’s lives, damaging their sense of dignity, and limiting their opportunities for healthy development and well-being. The ensuing adverse impacts on Children Petitioners and others like them are discussed next.

⁸³ Tillias, Exh. J, App. at 28.

⁸⁴ Dubique, Exh. H, App. at 16.

C. Health Impacts

Petitioners are acutely affected by the accumulation of trash. Children play on hills of trash. They walk across the trash-filled canals to get to school, walking on the trash itself, careful not to fall into the contaminated water.⁸⁵ Getting to and from SAKALA is dangerous: “The children who come to SAKALA have to cross piles of trash to get to the Center. Sometimes, they must fight blind spots because of heavy smoke that invades the entire community. Other times, they must cross the canals that [overflow] and flood their homes and the path to the neighborhood.”⁸⁶

These desperate conditions have tragic consequences. Dr. Dubique describes the threats to health that surround the lives of children, including the:

“incalculable ... cost of premature death and loss of human capital for development. In Cité Soleil, people always die young. Between 0-5 years, a child could easily die due to lack of access to vaccinations, sanitary conditions, lack of parents, lack of health education, and food insecurity. If a child is lucky enough to live through these fragile early years of development, he or she could easily die from hunger, armed conflict, sexually-transmitted diseases, or lack of basic essential services. I have personally seen a lot of young leaders with great potential lose their lives too early and this affects Cité Soleil’s ability to grow and progress.”⁸⁷

Yet the Government stands by. Every day “that this issue remains ignored,” Dr. Dubique says, “the number [of] respiratory diseases among the Cité Soleil community increases,”⁸⁸ along with other preventable conditions, discussed next.

1. Physiological Effects.

Prolonged exposure to trash and contaminated wastewater presents immediate danger to the Children Petitioners. Some of the children experience headaches and other physical ailments: M.Ca. says: “It makes it very difficult to breathe. Sometimes it goes in my eyes and it goes in my

⁸⁵ M.Ca., Exh. C, App. at 5; and M.Ch., Exh. D, App. at 7.

⁸⁶ Tillias, Exh. J, App. at 28.

⁸⁷ Dubique, Exh. H, App. at 19.

⁸⁸ *Id.*

nose. It makes my eyes water.”⁸⁹ M.Ch. says: “When they are burning the trash it gives me a headache and it makes my eyes water.”⁹⁰ N.I. complains that the burning trash “is a problem for me because it gives me a headache and I can’t escape/avoid the problem.”⁹¹

Dr. Dubique reports that, “people from Cité Soleil are more likely to die from diseases and floods and from hunger and gang violence . . . [when it rains] the trash and dirty waters inundate the communities and the households, causing malaria, typhoid, cholera, acute diarrhea, worms and skin diseases.”⁹² “The growing trash problem affects the residents of Cité Soleil in all aspects of their life: physically, mentally, and socially.”⁹³

a. Disease from Contaminated Water

Contaminated water is a major problem for the Children Petitioners. Dr. Mackenson Saint Fort is a physician who provides surgical and other services in Cité Soleil and throughout Haiti. He has examined the children of SAKALA. He concludes that water that has become unsuitable for drinking by coliform bacilli, parasites, protozoa, fungi and the toxins it contains become a poison for the inhabitants of this area.⁹⁴ He concludes that the canals create a widespread breeding ground of “malaria, dengue, yellow fever, Chikungunya, Zika and filariasis.”⁹⁵

The dirty water from the canals contaminates all other water sources used by the Petitioners. Dr. Saint Fort reports that “33% of the population consume dirty water during the rainy season [while] 23% quench their thirst with cloudy water and only 42% [have access to] clean

⁸⁹ M.Ca., Exh. C, App. at 5.

⁹⁰ M.Ch., Exh. D, App. at 7.

⁹¹ N.I., Exh. E, App. at 8.

⁹² Dubique, Exh. H, App. at 15.

⁹³ *Id.* App. at 16.

⁹⁴ Saint Fort, Exh. L, App. at 33.

⁹⁵ *Id.*, App. at 34.

water.”⁹⁶ Dr. Bélizaire explains some of the health consequences of living around stagnant pools of dirty water:

“The collection of water in the trash and the buildings when it rains and touches the body can lead to skin diseases like scabies and tiña capitis, or worsen existing infections like vaginal infections, and STIs. The water may be used for cooking and lead to diarrhea. The water also breeds mosquitoes that bite the individual, and cause malaria and dengue fever, and others. Most of the children in Cité Soleil do not eat every day and many have malnutrition, so their bodies are not strong enough to fight off illness. Some of the diseases are treatable, such as scabies, but others like diarrhea can lead to death. The children that live within these conditions often have mental health issues due to the dangerous and unhealthy conditions.”⁹⁷

Diarrhea is a constant in Cité Soleil. Dr. Bélizaire reports that even though diarrhea is easily treatable in most areas of the world, it becomes a common cause of death to the residents of Cité Soleil due to widespread inaccessibility of clean drinking water, along with living among flood-damaged homes.⁹⁸ This makes residents susceptible to repeated ailments despite receiving treatment. While diarrhea itself can be serious in Haiti, the most significant problem with widespread diarrhea comes from the resulting dehydration that ensues for the infected individual. For an area that already lacks access potable water, inability to replenish fluids and to hydrate makes disease deadly.⁹⁹

Diarrhea is an especially dangerous affliction for the children of Cité Soleil; it is, after respiratory illness, the leading cause of death among children under 5 years.¹⁰⁰

Scabies is prevalent too, due to the prevalence of rainwater soaking everything both in and out of private homes and contaminating whatever it encounters.¹⁰¹ Scabies is an intensely itchy skin condition caused by bites from tiny, burrowing mites that live in dirty water. It is also highly contagious. Like malaria and typhoid, scabies is rampant in Cité Soleil.

⁹⁶ *Id.*, App. at 33.

⁹⁷ Bélizaire, Exh. G, App, at 11.

⁹⁸ *Id.*, See also A. Bras, C. Berdier, et al., *Problems and Current Practices of Solid Waste Management in Port-au-Prince (Haiti)*, 29 Waste Management 2907-09 (2009).

⁹⁹ See *id.*

¹⁰⁰ Saint Fort, Exh. L, App. at 34.

¹⁰¹ Bélizaire, Exh. G, App, at 11.

In addition to these diseases, women and girls in Cité Soleil are especially susceptible to urinary tract infections caused by lack of access to clean water. Dr. Saint Fort concludes, “[approximately] 67% of girls have urogenital infections.”¹⁰²

All these conditions are easily preventable simply by ceasing to use Cité Soleil as a wasteland.

b. Respiratory Conditions

The environmental conditions where Petitioners live also cause respiratory ailments. As expert Dr. Dubique explains:

“Inhalation from burning trash/plastic in Cité Soleil is affecting not only the health of the people but also affects them socially. When people in Cité Soleil respire the burning trash, it makes them more likely to develop asthma. This has directly exacerbated the growing deadly asthma crisis in Haiti. ... You don’t need to be directly next to burning trash and plastic to be affected because the smoke invades the environment and all in Cité Soleil are adversely affected. In Haiti, much of the trash includes plastic bottles and otherwise recyclable plastic material. When we burn this plastic trash close to the community, it puts the residents at heightened risk to develop several different types of cancer.”¹⁰³

Dr. Bélizaire concludes: “When trash, including plastic, rubber from the tires, is burned, the respiratory system is affected, causing conditions like asthma[*tic*] bronchitis, [and] asthma, (which is an inflammatory respiratory disease caused by allergies.)”¹⁰⁴ Dr. Dubique explains:

“Respiration diseases and infections are the leading causes of death among children. In this community, aluminum is commonly used to make metal utensils to cook. When this aluminum is thrown out and then burned, those nearby are at heightened risk to harm their respiratory systems as inhalation of burning aluminum can easily cause lung cancer with chronic exposure.”¹⁰⁵

¹⁰² Saint Fort, Exh. L, App. at 38.

¹⁰³ *Id.* App. at 16.

¹⁰⁴ Bélizaire, Exh. G, App, at 11

¹⁰⁵ Dubique, Exh. H, App. at 14.

Resulting respiratory ailments constitute a significant cause of death in Cité Soleil. Dr. Saint Fort reports that “15% of all annual deaths result from bronchial atrophy” caused by hazardous air pollution from burning trash in the canals.¹⁰⁶

The burning trash produces cancer-causing chemicals. For example, when these burns occur, toxic and cancer-causing chemicals such as Agent Orange are released into the environment, leaving Cité Soleil’s residents susceptible to “neurological [damage, damage to] thyroid function and respiratory system damage.”¹⁰⁷ Dr. Bélizaire concludes:

“The dioxins, the tetrachlorodibenzo-p-dioxin and the carbon dioxide that are inhaled from the burning trash are lethal. Commonly known as Agent Orange, these chemicals provide a toxic compound for the organism that cause cancer and neurological, thyroid function and respiratory system damage. Thus, the burning of plastic wastes increases the risk of heart disease, aggravates respiratory ailments such as asthma and emphysema, and can cause rashes, nausea or headaches, and damage to the nervous system.”¹⁰⁸

Children are disproportionately affected by poor environmental conditions, on account of their metabolism, immune systems, physiology and developmental needs.¹⁰⁹ Expert Dr. Bélizaire says that “[f]or children under five, the first cause [of death] is respiratory diseases.”¹¹⁰ Having examined children at SAKALA, Dr. Saint Fort concludes that:

- “100% of these children had a complaint related to the respiratory tract ranging from repeated influenza-like illness in the majority of cases, however about 27% of them had signs and symptoms compatible with a serious bronchopulmonary disease”;
- “[a]pprox. 87% of them presented ophthalmic disorders in the form of eye irritation: red eye, pruritus, excessive tearing, blurred vision;
- “About 53% had a decrease in visual acuity”;
- “[a]lmost 53% of them had nasal sinusitis and 60% had irritative pharyngolaryngitis”;
- and that “73.3% had an irritative skin condition ranging from pruritus, erythema, to vesicular, papular, pustular lesions and fungal dermatophytias which create remarkable psychological and aesthetic damage in girls especially.”¹¹¹

¹⁰⁶ Saint Fort, Exh. L, App. at 34.

¹⁰⁷ Bélizaire, Exh. G, App, at 11.

¹⁰⁸ *Id.*

¹⁰⁹ See generally World Health Organization (WHO), *Inheriting a Sustainable World? Atlas on Children’s Health and the Environment* (2017), available at www.who.int/ceh/publications/inheriting-a-sustainable-world/en/.

¹¹⁰ *Id.*

¹¹¹ Saint Fort, Exh. L, App. at 38.

Girls and women who are pregnant are especially at risk for harm to themselves and their babies due to exposure to the toxic smoke, as Dr. Dubique explains.

“One example of how the smoke pollution affects the residents’ physical [health] can be seen in how a pregnant woman who inhales smoke can affect the neural tube. This is especially detrimental to the embryonic development of the child because the neural tube is responsible for brain development and toxic pollution from burning trash can produce congenital malformation.”¹¹²

Toxic smoke adversely affects those who aren’t exposed directly. Dr. Bélizaire concludes: “a person does not need to be physically close to the smoke from burning trash/plastic in order to be harmed by it. Toxicological studies on dioxin showed the potential health risks within 26 feet of the source of waste burning source from just 15 minutes of burning. It is recommended to burn trash 50 ft [or more] from houses and individuals which does not occur in Cité Soleil.”¹¹³

And the horrible smell is inescapable. It is so severe that it prevents children from living their lives, going to school, playing with friends. For example, E.D. says “It is a problem for us because of the smell. The bad smell is not good for us.”¹¹⁴

The Government can prevent all of this. Both Dr. Dubique and Dr. Bélizaire agree that “the significant cases of infectious diseases, long-term respiratory conditions (such as asthma, lung cancer, etc.), and general [high] mortality rate for those living in Cité Soleil [is] directly caused by massive accumulation of waste and the improper/unmonitored methods of its removal through general trash fires.”¹¹⁵

2. Psychological Impacts.

The environmental conditions in Cité Soleil exact profound psychological damage to Children-Petitioners and others who live in Cité Soleil. Dr. Saint Fort has examined children at

¹¹² Dubique, Exh. H, App. at 14.

¹¹³ Bélizaire, Exh. G, App, at 12.

¹¹⁴ E.D., Exh. A, App. at 3.

¹¹⁵ Dubique, Exh. H, App. at 20; Bélizaire, Exh. G, App, at 12-13.

SAKALA, and in his expert opinion concludes: “The environment is killing these kids not only physically but it’s killing their dreams, it’s killing their potential, it’s killing their ability to be somebody tomorrow.”¹¹⁶ Mr. Tillias reinforces this: “As much as the canals will continue to be clogged, so many young lungs will be clogged the same. The smoke that dissipates in the air is the same as the dreams of children dissipating in the air. Children whose parents have to choose between sending them to school or sending them to a [medical] clinic. Children should not be expose[d] to this.”¹¹⁷ The children believe this as well. As Mr. Tillias describes it:

“We know it is devastating for a child[’s] life to have only trash as their decoration. They can only dance on the mud and trash that take away their sense of humanity. The way the trash is disposed of now in the canals is just like the children there had no other destiny and had no dignity. Because of this, you hear them say too often say that they have no existence. A young boy told me once he was already dead, they just cannot find a grave for him yet, this is why he is still among us. When the sense of despair is so bad, the children there in Cité Soleil are then ready for any big loss. They have no real reason to live, they are ready not to be a real human being, their only dignity becomes the dignity of dying that at least everyone share.”¹¹⁸

Children are affected most of all, again. Some have given up. M.Ca., explains that sometimes they did not go to school at all: “Sometimes I just go home so I could avoid smelling this bad smell.”¹¹⁹

D. Climate Change

Climate change-related effects – such as more frequent flooding and more intense storms – adversely affect children most of all,¹²⁰ and in worse ways than adults,¹²¹ including “(1) environmental displacement, which reduces opportunities for education and destabilize children’s families and community structures; (2) food and water insecurity; (3) diminished health and

¹¹⁶ Saint Fort, Exh. L, App. at 39.

¹¹⁷ Tillias, Exh. J, App. at 29.

¹¹⁸ *Id.*

¹¹⁹ M.Ca., Exh. C, App. at 6.

¹²⁰ UNICEF, *Unless We Act Now: The Impact of Climate Change on Children* (New York, 2015), p. 6; UNICEF, *The State of the World’s Children 2014: Every Child Counts* (New York, 2014).

¹²¹ P.J. Landrigan and A. Garg, “Children are not little adults”, in *Children’s Health and the Environment: A Global Perspective*, J. Pronczuk-Garbino, ed. (Geneva, WHO, 2005).

reduced access to medical care; and, (4) reduced access to information, participation and justice.”¹²²

Furthermore, climate change-related floods worsen the spread of waterborne diseases, especially when water and sanitation infrastructure is compromised already. Poor hygiene and consumption of contaminated water can contribute to increased incidence of diarrhea, cholera, and other diseases. Diarrhea alone is the second leading cause of mortality in children under five years old.¹²³ Climate change also expands the seasonal and geographic range of vector-borne diseases, including insect-borne diseases. Besides impacts to safe food and potable water, climate change disrupts child protection systems and worsens societal and familial pre-existing tensions and conflicts, leaving children susceptible to abuse, child labor, trafficking and other forms of exploitation,¹²⁴ already significant problems in the poorer sections of Haiti. Moreover, “disproportionate impacts will be felt by children living in developing countries, particularly those in geographically vulnerable areas, such as riparian and low-lying coastal areas,” as here.¹²⁵ Girls in particular face heightened risks due to these climate change-related effects.¹²⁶ Thus, climate change magnifies the adverse environmental conditions facing children in Cité Soleil, including the Children-Petitioners.

¹²² Dignity Right Project, “Climate Change and the Dignity Rights of the Child,” at 3 (Madison McGuirk and Brianna Mills et al., submission to the United Nations High Commissioner for Human Rights, September 2017), available at: https://www.ohchr.org/Documents/Issues/ClimateChange/RightsChild/Dignity_Rights_Project.pdf

¹²³ WHO, “Diarrhoeal disease”, Fact sheet No. 330 (2013), available from www.who.int/mediacentre/factsheets/fs330/en/.

¹²⁴ Sheridan Bartlett, “Climate change and urban children: impacts and implications for adaptation in low- and middle-income countries.” Environment and Urbanization, vol. 20, No. 2 (October 2008), pp. 509-510

¹²⁵ “Analytical Study on the Relationship Between Climate Change and the Full and Effective Enjoyment of the Rights of the Child,” Report of the Office of the United Nations High Commissioner for Human Rights A/HRC/35/13 (2017), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/110/91/PDF/G1711091.pdf?OpenElement>

¹²⁶ *Id.*

III. ADMISSIBILITY AND EXHAUSTION

The Commission has competence over the Petition because it “respect(s) matters relating to the fulfillment of the commitments made by the State Parties to this Convention.”¹²⁷ Haiti is a “state party” to the Convention. The Petition is admissible and exhaustion of domestic remedies is impossible.

A. The Petition is Admissible

The Petition is admissible because it involves the proper (1) parties (*Ratione Personae*), (2) place (*Ratione Loci*), (3) subject matter (*Ratione Materiae*), and (4) timing (*Ratione Temporis*).¹²⁸

First, the Petitioners are proper parties. The American Convention provides that “[a]ny person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization, may lodge petitions with the Commission containing denunciations or complaints of violation of this Convention by a State Party.”¹²⁹ Furthermore, the Commission’s Rules of Procedure invite “[a]ny person or group of persons or nongovernmental entity legally recognized in one or more of the Member States of the OAS [to] submit petitions to the Commission . . . concerning alleged violations of a human right recognized in . . . the American Convention on Human Rights . . .”¹³⁰ The Children Petitioners are both “persons” and a “group of persons.” Petitioner SAKALA is a legally recognized nongovernmental organization. Both are proper parties (*ratione personae*) to lodge this Petition.

¹²⁷ Organization of American States, American Convention on Human Rights, art. 33(a), O.A.S.T.S. No. 36, 1144 U.N.T.S. 123 (Nov. 22, 1969) (“The following organs shall have competence with respect to matters relating to the fulfillment of the commitments made by the State Parties to this Convention: (a) the Inter-American Commission on Human Rights [. . .]”); Inter-Am. Comm’n H.R., Digest of the Convention on its Admissibility and Competency Criteria, ¶ 4 (March 4, 2020).

¹²⁸ Inter-American Commission on Human Rights [“Inter-Am. Comm’n H.R.”] Rules of Procedure, art. 28 at (1)-(9) (Requirements for the Consideration of Petitions, including required factual information that the Commission examines before initiating proceedings and the procedural requirements of the petitioners).

¹²⁹ Convention, art. 44

¹³⁰ Inter-Am. Comm’n H.R., Rules of Procedure, art. 23.

Second, Haiti is an appropriate party.¹³¹ Haiti is subject to the American Convention. Haiti deposited its instrument of accession on 27 September 1977 and recognized the jurisdiction of the Court on 20 March 1998. Haiti must therefore “undertake to respect the rights and freedoms recognized [therein] and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.”¹³² The violations described here happened in Haiti; thus, it is a proper party. (*Ratione Loci*).

Third, the subject matter is within the Commission’s competency. The Petition details violations of the rights of the child (Article 19), the right to dignity (Article 11), the right to life (Articles 4 and 26), and the right to judicial protection (Article 25), each of which falls within the subject matter over which the Commission has competency (*ratione materiae*).¹³³

Last, the Petition is appropriately timed. Haiti was subject to the American Convention when the facts presented in this Petition occurred,¹³⁴ and the Petition was submitted within a reasonable time of when these events occurred.¹³⁵ “Reasonable time” is found by considering the date upon which the alleged violation of rights occurred and other circumstances.¹³⁶ Here, the violations are ongoing with no conceivable alleviation on the horizon. Moreover, the Petition is not subject to a duplicate proceeding. It is not pending before any international body nor is any form of

¹³¹ Convention, *Signatories and Ratifications*, <https://www.cidh.oas.org/basicos/english/Basic4.Amer.Conv.Ratif.htm#14>.

¹³² Convention, at art. 1.1; Inter-Am. Comm’n H.R., Admissibility Report No. 21/14; *See e.g.*, Baptiste Willer and Fredo Guirant at ¶ 14 (April 4, 2014).

¹³³ Convention, at art. 33(a); OAS G.A. Res. 447. Statute of the Inter-Am. Comm’n H.R., art. 1.2 (Oct. 1979) (“For the purposes of the present Statute, human rights are understood to be: a. The rights set forth in the American Convention on Human Rights, in relation to the State Parties thereto; b. The rights set forth in the American Declaration of the Rights and Duties of Man, in relation to the other member states.”); Inter-Am. Comm’n H.R., Rules of Procedure, at art. 23, art. 51.

¹³⁴ *Id.* at ¶ 15.

¹³⁵ Inter-Am. Comm’n H.R., Rules of Procedure, at art. 32(2)(A petition must be presented “within a reasonable period of time, as determined by the Commission.”)

¹³⁶ *Id.*

settlement on the matter pending before an international organization of which Haiti is a member.¹³⁷ Thus, the Petition's timing is proper. (*Ratione Temporis*).

B. Exhaustion of Remedies is Impossible

Petitioners need not exhaust domestic remedies. As a general matter, parties must initially have “pursued and exhausted [their claims] in accordance with the generally recognized principles of international law.”¹³⁸ Yet, parties need not exhaust domestic remedies when “the domestic legislation of the State concerned does not afford due process of law for protection of the right or rights that have allegedly been violated.”¹³⁹ This exception applies in this case for three reasons: First, since 2019, the judicial system in Haiti has ceased to function effectively; second, in November 2020, the President withdrew judicial review of executive actions of the principal administrative court; and third, attacks on the lives of human rights advocates since 2020 means that lawyers would be risking their lives if they represented Petitioners.

First, since 2019, the judicial system in Haiti has ceased to provide effective remedies in cases like this.¹⁴⁰ The institutional structure of the judicial system has been plagued with corruption, lack of resources, under-staffing, and disorganization,¹⁴¹ which both contribute to and are symptomatic of the political and social instability and upheaval that characterize Haiti in recent years. For example, in *Yvon Neptune v. Haiti*, the Inter-American Court in 2008 concluded that circumstances “have undermined the ability of the justice system in Haiti to effectively ensure and

¹³⁷ *Id.* at art. 33(1).

¹³⁸ *Id.* at art. 31(1).

¹³⁹ *Id.*, at art. 31(2)(a)

¹⁴⁰ See Inter-Am. Comm'n H.R., Organization of American States (OAS) *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser.L/V/II.123, doc. 6 rev. ¶ 177-179 (Oct. 26, 2005); Inter-Am. Comm'n H.R., OAS, *Observations of the Inter-American Commission on Human Rights Upon Conclusion of its April 2007 Visit to Haiti*, OEA/Ser.L/V/II.131, doc. 36 ¶ 62 (Mar. 2, 2008); United Nations (U.N.) High Commissioner for Human Rights, *Development of a National Action Plan to Implement Recommendations of Human Rights Mechanisms in Haiti*, ¶ 40. U.N. Doc. A/HRC/38/30 (May 15, 2018); and U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., 2019 Country Reports on Human Rights Practices: Haiti, p. 1 (Mar. 13, 2020).

¹⁴¹ Inter-Am. Comm'n H.R., OAS, *Observations of the Inter-American Commission on Human Rights Upon Conclusion of its April 2007 Visit to Haiti*, OEA/Ser.L/V/II.131, doc. 36 ¶ 62 (Mar. 2, 2008).

protect the fundamental rights and freedoms to which Haitians are entitled, resulting in a pattern of impunity in Haiti for violations committed by both state and non-state actors.”¹⁴²

The judicial system in Haiti is less functional now than it was in 2008, and the present conditions will not change.¹⁴³ The inability of the judicial system to investigate and prosecute human rights violations, both past and present, has deteriorated public confidence in the system and, as a result, domestic remedies are unrealistic and nearly impossible to pursue for the victims of those violations.¹⁴⁴ In addition, decades of governmental instability and corruption have created a perpetual “cycle of impunity.”¹⁴⁵ In February 2020, the OAS Special Rapporteur on Economic, Social, Cultural and Environmental Rights noted “the lack of institutionality in the country,” in addition to “acts of corruption and the serious human rights situation” in Haiti.¹⁴⁶ Simply, the courts in Haiti are not open to Petitioners’ human rights claims.¹⁴⁷ As described in November 2020 by human rights attorney Patrice Florvilus,

“The current situation in Haiti is alarming. From a socio-political point of view, it is characterized by an incomparable institutional vacuum, a stranglehold by the executive over all the structures of the judicial system, a persistent lack of consensus on a common political agenda, extreme polarization, growing insecurity engendered by gang activity, serious human rights violations, massacres committed in impoverished neighborhoods and, according to some sources, with the collaboration of state authorities, and several spectacular murders . . .”¹⁴⁸

¹⁴² *Yvon Neptune v. Haiti, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 180, ¶ 2, ¶ 51* (May 6, 2008) (Inter-Am. Comm’n H.R. requested the InterAm. Ct. H.R. to declare the state responsible for the violation of Articles 5(1), 5(2), 5(4), 7(4), 7(5), 7(6), 8(1), 8(2)(b), 8(2)(c), 9, and 25(1) of the American Convention in conjunction with Article 1(1) to not only redress the violations against the individual petitioner but also to improve the situation Haitians “through the implementation of the necessary and appropriate reforms to the Haitian judicial system”).

¹⁴³ See Inter-Am. Comm’n H.R., Organization of American States (OAS), *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser.L/V/II.123, doc. 6 rev. ¶ 177 (Oct. 26, 2005).

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at ¶ 178.

¹⁴⁶ Soledad Garcia Muñoz (Special Rapporteur on Economic, Social, Cultural and Environmental Rights) (“SRESCER”), Inter-Am. Comm’n H.R., *Ann. Rep. of SRESCER*, OEA/Ser.L/V/II., doc. 5 ¶ 364 (Feb. 24, 2020).

¹⁴⁷ *Id.* at ¶ 11.

¹⁴⁸ Declaration of Patrice Florvilus, (“Florvilus”), Exh. I, App. at 21. (“La situation actuelle en Haïti est alarmante. Elle caractérise du point de vue sociopolitique par une vide institutionnelle sans commune mesure, une mainmise de l’exécutif sur l’ensemble des structures de l’appareil judiciaire, une absence persistante de consensus sur un programme politique commun, une polarisation extrême, l’insécurité croissante engendrée par l’activité des gangs, de graves violations de droits humains, des massacres commis dans les quartiers appauvris et, selon certaines sources,

Moreover, as the Commission is aware, those who defend human rights put their lives at risk. On 29 January 2020, the Commission granted precautionary measures in favor of victims of a massacre that had taken place more than one year prior in an area a few miles from where Petitioners live. According to its press release, “[t]he Commission found that beneficiaries continued to be subjected to threats, harassment, and other acts of violence, for filing complaints and for further pursuing their demands for justice for the events that allegedly took place on November 13, 2018 [when] scores of people were allegedly murdered or injured in an attack perpetrated by armed groups in the neighborhood of La Saline, in Haitian capital Port-au-Prince.”¹⁴⁹ As the Commission noted, despite the national and international profile of the La Saline massacre, court processes that are “slow, opaque and unreliable” forced the victims to seek precautionary measures to avoid further harm.¹⁵⁰

Even if a Haitian court were to hear the matter and find for Petitioners, it is unlikely a remedy could be enforced¹⁵¹ and exhaustion is not necessary where pursuing remedies is futile. With neither an executive branch commitment to rule of law nor judicial ability to ensure compliance, there is no basis for believing that the executive authority would abide by a judicial order requiring remediation of environmental disaster areas in the slums of the capital city. The government’s failure to respond to the victims in La Saline gruesomely demonstrates the disdain in which the government holds its most vulnerable citizens. Even if the government were responsive

avec la collaboration d’authorités étatiques, et plusieurs meurtres spectaculaire...”). Translation by Legal Representatives.

¹⁴⁹ Petitioners of La Saline, Precautionary Measures Request, Inter-Am. Comm’n H.R., ¶ 37 (Aug. 9, 2019); Press Release, OAS, *IACHR Grants Precautionary Measures in Favor of Victims of La Saline in Haiti* (Jan. 29, 2020), http://www.oas.org/en/iachr/media_center/PReleases/2020/017.asp.

¹⁵⁰ Petitioners of La Saline, Precautionary Measures Request, Inter-Am. Comm’n H.R., ¶ 37 (Aug. 9, 2019); Press Release, OAS, *IACHR Grants Precautionary Measures in Favor of Victims of La Saline in Haiti*, at ¶ 50 (Jan. 29, 2020), http://www.oas.org/en/iachr/media_center/PReleases/2020/017.asp.

¹⁵¹ U.N. Human Rights Comm., submitted by Boston College Law School, Bureau des Avocats Internationaux, et al., *Access to Judicial Remedies in Haiti*, ¶ 3 (Sept. 12, 2014) [Boston College].

to the needs of some Haitians, class discrimination results in preferential treatment of the wealthy and powerful, while discounting the “testimonies and legal needs of the poor.”¹⁵²

Second, the President recently withdrew the power of judicial review.¹⁵³ While the President said, pretextually, that he was merely trying to reduce the Court’s workload, his action made the Superior Court of Accounts and Administrative Litigation into “a simple consultative body despite the fact that the amended Constitution of March 29, 1987, in its article 200.4 recognizes this Court’s right to carry out audits in all public administrations.”¹⁵⁴

Third, the security situation in Haiti, and in Port-au-Prince, deteriorated in 2020 to the point where a lawyer is risking his or her life to bring a case to court. In August 2020, the leader of the Port-au-Prince Bar Association, Me. Monferrier Dorval, was gunned down in his driveway as he was leaving for work.¹⁵⁵ The threat to other lawyers has been palpable.¹⁵⁶ As Me. Florvilus says:

“When judges, clerks and/or bailiffs do not go on strike, it is generalized insecurity that prevents courts and tribunals from functioning. For example, for more than 6 months the Court of Appeal of Port-au-Prince has been dysfunctional. The Port-au-Prince courthouse finds itself in a veritable triangle of death. Litigants, Court staff and court officials avoid frequenting the courthouse as usual, at the risk of being killed or attacked by bandits. The practice of the profession of lawyer has become almost impossible.”¹⁵⁷

¹⁵² *Id.*

¹⁵³ Ons Chery, *In Latest Decree, Moïse Rejects Judicial Oversight Of His Government*, Haitian Times, Nov 9, 2020 <https://haitiantimes.com/2020/11/09/in-latest-decree-moise-rejects-judicial-oversight-of-his-government/>

¹⁵⁴ Florvilus, Exh. I, App. at 25 (translation by Legal Representatives). See also *Décret CSCCA: Les quatre grandes erreurs de l’Exécutif*, Le Nouvelliste (Nov 17, 2020)

<https://lenouvelliste.com/article/223205/decret-cscca-les-quatre-grandes-erreurs-de-lexecutif>.

¹⁵⁵ Jacqueline Charles, *Haitian Lawyer, Constitutional Expert Gunned Down Hours after Controversial Radio Interview*, Miami Herald (Aug. 29, 2020). Me. Dorval had previously said that as the leader of the lawyers’ association, “The physical security of lawyers is my top priority.” *Id.* See also Florvilus, Exh. I, App. at 24.

¹⁵⁶ See *Haiti’s deteriorating human rights problem*, UN WEB TV (Aug. 4, 2020),

<https://www.miamiherald.com/news/nation-world/world/americas/haiti/article244724867.html>

(Briefing of Jacques Letang, president of the Haitian Bar Federation and founding member of the Human Rights Office in Haiti, in an address to the U.N. Security Council on June 2020 on the deteriorating human rights situation in Haiti. . . . Letang notes that “Despite the precautionary measures ordered by the Inter-American Commission on Human Rights in December 2019, there is no longer even an investigation as the case has been blocked for months at the level of the Court of Cassation. This is a clear message that the State sends to victims who put their lives at risk to file a complaint: at the national and international level, they will get neither protection nor justice. The question of the involvement of the authorities in the perpetration of these atrocities is raised in many reports, including that of MINUJUSTH, or the more recent one of BINUH on the Bel Air massacre. These accusations are extremely serious, yet nothing is happening.” English Version of Me. Letang’s Statement Before the Security Council, June 19, 2020, Bureau des droits humains en Haiti available at <https://bdhhaiti.org/archives/495>).

¹⁵⁷ Florvilus, Exh. I, App. at 24.

In sum, the Petition is admissible because the Commission has competence over this matter, there is a clear violation of the Petitioners' human rights recognized in the American Convention, and exhausting domestic remedies is impossible.

IV. VIOLATIONS OF THE AMERICAN CONVENTION

A. General Obligations to Respect the Indivisibility of Rights

Haiti has ratified the American Convention on Human Rights and recognized the jurisdiction of the Inter-American Court on Human Rights to enforce it.¹⁵⁸ Article 1 reflects a general “Obligation to Respect Rights.” It provides:¹⁵⁹

“The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.”

Petitioners claim violations of certain indivisible rights the Convention confers, including the rights of the child, to dignity, to a healthy environment, and to judicial protection.

Judges A.A. Cançado Trindade and A. Abreu-Burelli have expressed the indivisibility of rights – particularly as they relate to protection of children – in several decisions including most explicitly, in the case of the “Street Children.”¹⁶⁰ The judges observe: “The needs of protection of the weaker, such as the children in the streets ... require definitively an interpretation of the right to life so as to comprise the minimum conditions of life with dignity. Hence the inexorable link which we find ... between Articles 4 (right to life) and 19 (rights of the child) of the American Convention.”¹⁶¹

The judges elaborated on the intrinsic connection between life and dignity, as neither can exist without the other:

“We believe that the project of life is consubstantial of the right to existence, and requires, for its development, conditions of life with dignity, of security and integrity of the human person ... The project of life is ineluctably linked to freedom, as the right of each person to

¹⁵⁸ OAS, Declaration of Recognition of the Jurisdiction of the Inter-Am. Ct. H.R. (Haiti) http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.#Haiti.

¹⁵⁹ Convention, art. 1.

¹⁶⁰ Villagrán Morales et al. v. Guatemala, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 63, ¶ 78 (Nov. 19, 1999) (“Street Children”).

¹⁶¹ Street Children, Separate Opinion of Judges Cançado Trindade and Abreu Burelli, para. 7.

choose her own destiny. [] The project of life encompasses fully the ideal of the American Declaration [of the Rights and Duties of Man] of 1948 of proclaiming the spiritual development as the supreme end and the highest expression of human existence.”¹⁶²

The judges recognized the “spiritual death” that results from conditions that prevent children from living full lives and flourishing:

“A person who in his childhood lives, as in so many countries of Latin America, in the humiliation of misery, without even the minimum condition of creating his project of life, experiences a state of suffering which amounts to a spiritual death; the physical death which follows to this latter, in such circumstances, is the culmination of the total destruction of the human being. These offences render victims not only those who suffered them directly, in their spirit and in their body; they project themselves painfully into the persons dear to them.”¹⁶³

No less did the majority of the Court recognize the same imperative:

“When States violate the rights of at-risk children, such as ‘street children,’ in this way, it makes them victims of a double aggression. First, such States do not prevent them from living in misery, thus depriving them of the minimum conditions for a dignified life and preventing them from the ‘full and harmonious development of their personality,’ even though every child has the right to harbor a project of life that should be tended and encouraged by the public authorities so that it may develop this project for its personal benefit and that of the society to which it belongs. Second, they violate their physical, mental and moral integrity and even their lives.”¹⁶⁴

These conditions impose on states both negative and positive obligations to protect the dignity of the most vulnerable populations – especially impoverished children living in deplorable conditions where they have little opportunity to fully develop their personalities:

“In essence, the fundamental right to life includes, not only the right of every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur and, in particular, the duty to prevent its agents from violating it.”¹⁶⁵

¹⁶² *Id.* at para. 8, (quoting Inter-American Court of Human Rights, *Loayza Tamayo versus Peru* case (Reparations), Judgment of 27.11.1998, Series C, n. 42, Joint Separate Opinion of Judges A.A. Cançado Trindade and A. Abreu Burelli, pars. 15-16).

¹⁶³ *Id.* at para. 9.

¹⁶⁴ Street Children, at para. 191 (quoting Convention on the Rights of the Child, Preamble, para. 6).

¹⁶⁵ *Id.* at para. 144.

The conditions described herein violate the rights to life and to dignity of the Children Petitioners.

B. Violation of Rights of the Child

Children are rights-holders.¹⁶⁶ Article 19 of the American Convention recognizes that “(e)very minor child has the right to the measures of protection required by his condition as a minor on the part of his family, society, and the state.”¹⁶⁷ This establishes “an additional and complementary right for children who, because of their state of development, require special protection.”¹⁶⁸

The Inter-American Court of Human Rights has applied Article 19 in imposing heightened obligations to protect children, as in the *Street Children* decision, discussed above.¹⁶⁹

International law is used in interpreting Article 19: “Both the American Convention and the Convention on the Rights of the Child are part of a very comprehensive international *corpus juris* on protection of children which should be used by this Court to determine the content and scope of the general provision established in Article 19 of the American Convention.”¹⁷⁰ Accordingly, the United Nations Convention on the Rights of the Child (UNCRC)¹⁷¹ recognizes “that every child has the inherent right to life”¹⁷² and requires states “to ensure to the maximum extent possible the survival and development of the child.”¹⁷³ States must also provide access to information, participation, justice,¹⁷⁴ and legal protection.¹⁷⁵

¹⁶⁶ Cowden M, *Children’s Rights: From Philosophy to Public Policy* (Palgrave Macmillan 2016).

¹⁶⁷ Convention, at art. 19.

¹⁶⁸ Inter-Am. Comm’n H.R., OAS, *Towards the Effective Fulfillment of Children’s Rights: National Protection Systems*, OEA/Ser.L/V/II.166., doc.206/17 (Nov.30, 2017).

¹⁶⁹ *See, e.g.*, *Street Children*.

¹⁷⁰ Inter-Am. Comm’n H.R., *The Rights of the Child in the Inter-American Human Rights System*, OEA/Ser.L/V/II.133, doc. 34 (2008).

¹⁷¹ United Nations Convention on the Rights of the Child (UNCRC), G.A. Res. 44/25, Annex, U.N. Doc. A/Res/44/49 (November 20, 1989).

¹⁷² UNCRC art. 6(1).

¹⁷³ UNCRC art. 6 (2)

¹⁷⁴ UNCRC Arts. 12 & 13.

¹⁷⁵ UNCRC Art. 16(1).

Children are acutely affected emotionally and physically by adverse environmental conditions,¹⁷⁶ including toxic fumes¹⁷⁷ and contaminated water.¹⁷⁸ The consequences of exposure to unhealthy environmental conditions are profound and last a lifetime:

“There are many environment- and pollution-related causes of ill-health in children, and pediatric health and science tell us that children are more vulnerable to environmental pollution than adults on account of their physiology and immature immune defences. The effects of air pollution are well[-]documented for indoor and outdoor pollution. There are well-documented studies on the effects on children of persistent organic pollutants and heavy metals, including lead and mercury[;] whether from air, water or land pollution, environmental harms to children include emotional as well as physical health impacts.”¹⁷⁹

Among the rights children have is the right to a clean environment.¹⁸⁰ In October 2020, the United Nations Human Rights Council adopted a resolution specifically addressing the rights of children to a healthy environment.

“Recognizing the particular vulnerability of children, due to their unique metabolism, physiology and developmental needs, to the effects of environmental harm, especially to pollution of the air, soil and water, and exposure to hazardous substances and wastes, and that exposure to those effects can have a lifelong impact on children, as their health outcomes, well-being and development are compromised from early age...”¹⁸¹

¹⁷⁶ UNICEF, *Children in the New Millennium: Environmental Impact on Health*, 20 (2002); Makuch, Karen E, ‘Environmental Rights of Children,’ in James R. May & Erin Daly (eds) *Human Rights and the Environment: Indivisibility, Dignity, Legality, Geography, Encyclopedia of Environmental Law* (Edward Elgar Press 2019); Tamburini G, von Ehrenstein OS and Bertollini R, ‘Introduction’ in Tamburini G, von Ehrenstein OS and Bertollini R (eds), *Children’s Health and Environment: A Review of Evidence* (European Environment Agency and the WHO Regional Office for Europe 2002) 12.

¹⁷⁷ Grigg J, Adjacent Government, in The United Nations Children’s Fund [Unicef] et al. *The Lifelong Impact of Air Pollution*, (May 2016); Rees N, ‘Danger in the Air: How Air Pollution Can Affect Brain Development in Young Children’ (2017) *Paediatrics and Child Health* 22; Sack C and Kaufman J, ‘Air Pollution Levels and Children’s Lung Health: How Low Do We Need to Go?’ (2016) 193(8) *American Journal of Respiratory and Critical Care Medicine* 819–820. <https://www.openaccessgovernment.org/wp-content/uploads/2016/05/AG10-web-final.pdf>; Rees N, *Danger in the Air: How Air Pollution Can Affect Brain Development in Young Children* (2017) *Paediatrics and Child Health* 22; Sack C and Kaufman J, *Air Pollution Levels and Children’s Lung Health: How Low Do We Need to Go?* (2016) 193(8) *American Journal of Respiratory and Critical Care Medicine* 819–820.

¹⁷⁸ See e.g., European Commission DG Environment (child-centric materials on environmental issues) <http://ec.europa.eu/environment/pubs/children/children.htm>

¹⁷⁹ Makuch at 390 (internal references omitted).

¹⁸⁰ See e.g., M. Fitzmaurice, *The Right of the Child to a Clean Environment* (1999) 23 S. ILL. U. L.J. 611; MacDonald (Makuch) KE, *Sustaining the Environmental Rights of the Child: An Exploratory Critique* 18(1) *Fordham Envtl.L Rev* (2006).

¹⁸¹ Human Rights Council, A/HRC/45/L.48/Rev.1 (October 5, 2020) <http://undocs.org/A/HRC/45/L.48/Rev.1>.

The Council emphasized “the vital importance of ensuring that every child of present and future generations can enjoy an environment adequate to their health and well-being, and that preventing environmental harm is the most effective way to fully protect children from its effects.”¹⁸²

The Council then urged “States to take the necessary measures to ensure the full enjoyment by children of all their human rights and fundamental freedoms, and to protect them from the effects of environmental harm through effective regulation and enforcement mechanisms.”¹⁸³

Moreover, the UNCRC requires states to “recognize the right of the child to the enjoyment of the highest attainable standard of health”¹⁸⁴ and combat disease and malnutrition, including within the framework of primary health care, through the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution [to] ensure that ... children, are ... supported in the use of basic ... environmental sanitation.”¹⁸⁵ Moreover, “[t]he natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.”¹⁸⁶ Agenda 21,¹⁸⁷ the Sustainable Development

¹⁸² *Id.* at para. 3.

¹⁸³ *Id.* at para. 4.

¹⁸⁴ UNCRC Article 24.

¹⁸⁵ UNCRC Article 24(2). *See*, Office of the High Commissioner for Human Rights (OHCHR), Committee on the Rights of the Child (CRC), Report of the 2016 General Day of Discussion: Children’s Rights and the Environment, http://www.ohchr.org/_layouts/15/WopiFrame.aspx?sourcedoc=/Documents/HRBodies/CRC/Discussions/2016/DGDoUtomereport-May2017.docx&action=default&DefaultItemOpen=1; Office of the High Commissioner for Human Rights (OHCHR), Special Rapporteur on Human Rights and the Environment, Draft Guidelines on Human Rights and the Environment, 2017, <https://aarhusclearinghouse.unece.org/resources/consultations-draft-guidelines-human-rights-and-environment-prepared-special-rapporteur>.

¹⁸⁶ United Nations Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration) (June 16, 1972), 11 I.L.M 1416.

¹⁸⁷ United Nations Report of the World Commission on Environment and Development, (Brundtland Report) (December 11, 1987) U.N. Doc. A/RES/42/187.

Goals¹⁸⁸ and the UN 2030 Agenda¹⁸⁹ all explicitly recognize the rights of children and future generations to a clean environment.

Consistent with international human and environmental rights law, the Commission has on many occasions applied Article 19 to protect children from adverse environmental conditions. For example, in *Community of La Oroya v. Peru*, the Commission determined that “the alleged deaths and/or health problems of alleged [child] victims resulting from actions and omissions by the State in the face of environmental pollution generated ... could represent violations of the rights” of the child under Article 19.¹⁹⁰ In 2020, in *Empleados de la Fábrica de Fuegos en Santo Antonio de Jesús y sus familiares v. Brasil*, the Commission concluded that unsafe environmental conditions at a fireworks factory that killed 20 children violated Article 19.¹⁹¹ And in *Vicente Ariel Noguera and Family v. Paraguay*, the Commission determined that the government’s failure to protect a minor from exposure to adverse environmental contamination violated Article 19.¹⁹²

Domestic courts over the world have also recognized the special rights of children to a clean and healthy environment. For example, in *Pablo Miguel Fabián y Otros v. Ministerio de Salud y la Dirección General de Salud Ambiental*, the Superior Court of Justice of Lima ordered the government of Peru to mitigate lead poisoning and air pollution harming children.¹⁹³ In *Environment & Consumer Protection Foundation v. Delhi Administration & Others*, the Supreme Court of India ordered the government to ensure school children have access to safe and clean

¹⁸⁸ United Nations, Transforming Our World: The 2030 Agenda for Sustainable Development (25 September 2015) A/RES/70/1.UN SDGs (2015).

¹⁸⁹ UN, Transforming Our World (2015); United Nations Millennium Declaration (Millennium Summit) (8 September 2000).

United Nations Sustainable Development Goals (UN SDGs) (2015) <https://sdgs.un.org/goals>

¹⁹⁰ *Community of La Oroya v Peru*, Inter-Am. Comm’n H.R., OAS, Admissibility Report No. 76/09 (Aug. 5, 2009).

¹⁹¹ *Empleados de la Fábrica de Fuegos en Santo Antonio de Jesús y sus familiares v. Brasil*, Caso 12.428, Inter-Am. Comm’n H.R., Informe No. 25/18, OEA/Ser.L./V/II.167, doc. 29 (2018).

¹⁹² *Vicente Ariel Noguera and Family v. Paraguay*, Case 12.329, Inter-Am. Comm’n H.R., Report No. 23/18, OEA/Ser.L./V/II.167, doc. 27 (2018).

¹⁹³ *Pablo Miguel Fabian Martinez et al. v. Ministerio de Salud y la Dirección General de Salud Ambiental (DIGESA)*, (Constitutional Court) Case No. 2002-2006-PC/TC (May 12, 2006) (Lima).

drinking water facilities, toilets and sanitation services.¹⁹⁴ And in *Case P-671*, the Constitutional Court of Belarus recognized the rights of children to a healthy environment.¹⁹⁵

There is well-settled law within the Inter-American Human Rights System, as well as internationally and domestically around the world, that recognizes children's particular vulnerabilities and that imposes on governments the obligation to take affirmative measures to protect children from dangers, including environmental conditions that threaten their life, health, and dignity.

Children in Cité Soleil are among the most vulnerable in the world. The water they drink is filled with disease.¹⁹⁶ The air they breathe is suffocating and causes permanent damage to their respiratory systems.¹⁹⁷ They are exposed to these conditions daily while their bodies and minds are in their most crucial stage of development. These conditions – resulting from inaction and neglect by their government – not only diminish each child's physical health, but also threaten their human dignity and poison their potential to grow mentally as well.¹⁹⁸

Summing up the situation for the children, Mr. Jean Paul says: "If we want to say something about justice. It's terrible. I can say only one word: it does not exist. All the rights are violated, right to live, to educate, to eat, to have water access and so on."¹⁹⁹ For the Children

¹⁹⁴ *Environment & Consumer Protection Foundation v. Delhi Administration & Others* WP Civ. No 631 of 2004 (2012)(India).

¹⁹⁵ *Case P-671/2011* Decision No. P-671/2011 [Constitutional Court of Belarus] (2011).

¹⁹⁶ Saint Fort, Exh. L, App. at 33: "The contamination of the water table in this commune by the faeces which arrive there either by runoff, or by non-compliant latrines or quite simply because the population does not have any, makes the water unsuitable for safe consumption.... The coliform bacilli, parasites, protozoa, fungi and the toxins it contains transforms it into a poison for the inhabitants of this area." See Section E below.

¹⁹⁷ *Id.*, App. at 34: "The state has no recycling cost plan for the tons of plastics of all kinds it utilizes or receives on a daily basis which are thrown away in the environment. These materials are destroying Cité-Soleil, by intoxicating the air, the water in addition to being responsible for the depletion of the water table by the phenomenon of runoff they produce and the flooding that comes along with it. This accelerates the salinization of the aquifer. Their non-standard combustion get rid of them or their use as a combustible (manufacture of aluminum boilers) release toxic gases into the atmosphere which will have harmful effects on the physical, neuropsychiatric and mental health of the population of this area."

¹⁹⁸ Dubique, Exh. H, App. at 19.

¹⁹⁹ Jean Paul, Exh. K, App. at 39.

Petitioners, all those rights are being violated by the government’s failure to respect their rights as children.

The environmental conditions described here violate the Rights of the Child. The Children Petitioners are living in a serious and urgent situation that irreparably threatens the rights they hold as children. P.J., for one, “would like Cité Soleil to find help so we can clean our area and everywhere can be clean.”²⁰⁰

The government has ignored the concentration of waste; neglected the social, economic, environmental, and psychological threat it poses to the children of Cité Soleil; distributed resources in ways that keep sanitation and safety in other districts in the capital city; failed to create a sanitary closed landfill; and refused to supply trash removal services. Every day that the government does not take responsibility for the well-being of its most vulnerable citizens is a new violation of each child’s rights that she or he is entitled to as a child.

C. Violation of Right to Dignity

1. Dignity as the Bedrock of Human Rights Law

“Dignity” refers to the inherent humanness of each person; it is an elemental value that presupposes that every human being has equal worth. It emphasizes the fundamental value and equality of all members of society – humans not only are endowed with dignity, but each is endowed with an equal quantum of dignity.²⁰¹ Simply, each person has a right to live as if his or

²⁰⁰ P.J., Exh. F, App. at 9.

²⁰¹ See generally, Erin Daly and James R. May, *Dignity Law: Global Recognition, Cases and Perspectives* (Hein 2020); James R. May and Erin Daly, *Advanced Introduction to Human Dignity and Law* (Edward Elgar 2020); Erin Daly, *Dignity Rights: Courts, Constitutions, and the Worth of the Human Person* (University of Pennsylvania Press, 2020); James R. May and Erin Daly, *Why Dignity Rights Matter*, 19 *European Human Rights Law Review* (2019) 129-134; Erin Daly and James R. May, ‘A Dignity Rights Primer’, 3 *Juriste Internationale* (2018) 21.

her life matters and to be treated “as a person.”²⁰² Dignity belongs to every person in the “human family,” including children.²⁰³

Article 11(1) of the American Convention recognizes that “[e]veryone has the right to . . . dignity.”²⁰⁴ The Inter-American Court has remarked that “dignity” stands for the “principle of the autonomy of the person as in the idea that those individuals should be treated as equals” and live “according to their intentions, will and own life decisions.”²⁰⁵

In the Americas in particular, the coalescing nature of dignity rights is patent. The American Declaration of the Rights and Duties of Man²⁰⁶ presaged the foundational role of dignity in the first words of its preamble: “All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.”²⁰⁷ As international human rights law elaborated on the nature of rights, the emphasis on dignity has become more pronounced to emphasize the equal worth of every person and to embody the indivisibility of all human rights. The additional protocol to the American Convention on Human Rights recognizes “that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person, for which reason both require permanent protection and promotion if they are to be fully realized, and the violation of some rights in favor of the realization of others can never be justified.”²⁰⁸

²⁰² May & Daly, *Why Dignity Rights Matter*, at 130.

²⁰³ G.A. Res. 217 (III) A, Universal Declaration of Human Rights, U.N. Doc. A/RES/217, Art. 1 (III) (Dec. 10, 1948) (UDHR). <http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf>

²⁰⁴ *See* Convention, at art. 11(1).

²⁰⁵ *I.V. v. Bolivia*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 329, at ¶ 149 (Nov. 30, 2016).

²⁰⁶ Inter-American Commission on Human Rights (IACHR), American Declaration of the Rights and Duties of Man, Bogota, 2 May 1948 <<https://www.refworld.org/docid/3ae6b3710.html>>.

²⁰⁷ *Id.* at Preamble.

²⁰⁸ Organization of American States (OAS), Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights, San Salvador, Preamble (Nov. 17 1988, in force 16 November 1999), 28 *International Legal Materials* 156 (Protocol of San Salvador), Preamble.

Dignity is also a common feature in international and domestic constitutional law. It is a foundation of the Charter of the United Nations²⁰⁹ (one of whose purposes is “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”²¹⁰), and the cornerstone of the Universal Declaration of Human Rights in 1948 (adopting the recognition of human dignity in the United Nations Charter and affirming that “[a]ll human beings are born free and equal in dignity and rights.”)²¹¹ It is a tenet shared by both the Covenant on Civil and Political Rights²¹² and the Covenant on Economic, Social, and Cultural Rights²¹³ (“Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world ...”).²¹⁴ In addition to the Convention on the Rights of the Child,²¹⁵ it is also recognized in myriad international and regional laws, including the United Nations Declaration on the Rights of Indigenous Peoples,²¹⁶ and the African Charter on Human and Peoples’ Rights.²¹⁷

²⁰⁹ Charter of the United Nations, Jun. 26, 1945, <http://www.un.org/en/documents/charter/index.shtml>.

²¹⁰ *Id.* at Preamble.

²¹¹ Universal Declaration of Human Rights, art. 1.

²¹² International Covenant on Civil and Political Rights, New York, 999 *United Nations Treaty Series* 171, Dec. 16 1966, in force 23 March 1976.

²¹³ International Covenant on Economic, Social and Cultural Rights, New York, 993 *United Nations Treaty Series* 195, Dec. 16, 1966, (in force Jan. 3, 1976).

²¹⁴ *Id.* at Preamble.

²¹⁵ UNCRC, Art. 28(2): ‘States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child’s human dignity and in conformity with the present Convention.’

²¹⁶ ‘United Nations Declaration on the Rights of Indigenous Peoples’, UNGA Res. 61/295, Art. 15 Oct. 2, 2007: ‘Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.’

²¹⁷ *See*, for instance, African Charter on Human and Peoples’ Rights, Nairobi, 21 *International Legal Materials* 58, Jun. 27 1981 (in force Oct. 21, 1986, (Banjul Charter), Art. 5: ‘Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status’; and American Convention on Human Rights, San José, Nov. 22, 1969, (force Jul. 18, 1978),

<<https://treaties.un.org/doc/Publication/UNTS/Volume%201144/volume-1144-I-17955-English.pdf>> (Pact of San Jose, Costa Rica), Art. 11(1): ‘Everyone has the right to have his honor respected and his dignity recognized.’

Moreover, nearly every constitution adopted or significantly amended since 1945 – that is, the constitutions of more than 160 countries – acknowledges a right to human dignity.²¹⁸

As the bedrock of international law and Inter-American human rights law, dignity embodies the principle that all persons are entitled to be treated with equal respect in recognition of each person’s equal and inherent worth. It imposes on states both affirmative and negative obligations to ensure protection of each person’s dignity; this obligation is especially pronounced where the dignity of children is at stake. In this instance, there are overlapping and mutually reinforcing vulnerabilities including childhood and poverty, and in some instances gender, all of which impinge on their ability to go to school, play, enjoy the protection of family life, and more. All these vulnerabilities are exacerbated by the failure of the judicial system to provide recourse and protection where rights are violated.²¹⁹ This illustrates what the Court has already recognized: that the right to dignity reflects the indivisibility of all human rights.²²⁰

2. The Dignity-Based Right to a Healthy Environment

The Inter-American Commission and Court have found that a right to dignity incorporates a right to a healthy environment.²²¹ For example, the Court in *Yarce et al v. Colombia* found that subjecting the claimants to “unhygienic and unhealthy conditions for nine days,” amounted to a violation of dignity under Article 11(1).²²²

²¹⁸ Doron Shulztiner and Guy E. Carmi, ‘Human Dignity in National Constitutions: Functions, Promises and Dangers’, 62(2) *American Journal of Comparative Law* 461–490, 465–466 (2014). See also Dignity Rights Project, ‘Database of Constitutional Provisions on Dignity Rights’, available at <<https://delawarelaw.widener.edu/prospective-students/jd-program/jd-academics/signature-programs/dignity-rights-project/dignity-rights/>>. See also ‘National Constitutions with Dignity Provisions 2015’, available at <<https://docs.google.com/spreadsheets/d/1Tn8w8hJ7HOLy-HY9rkUEPjyOAIcfaUw2X3a594RDA8/edit#gid=0>>.

²¹⁹ See *Empleados de la Fábrica de Fuegos en Santo Antonio de Jesús y sus familiares v. Brasil*, Caso 12.428, Inter-Am. Comm’n H.R., Informe No. 25/18, OEA/Ser.L./V/II.167, doc. 29 (2018), on reinforcing vulnerabilities.

²²⁰ *Villagrán Morales et al. v. Guatemala*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 63, ¶ 78 (Nov. 19, 1999).

²²¹ *Linda Loaiza Lopez Soto and Relatives v. Venezuela*, Case 12,797, Inter-Am. Comm’n H.R., Report No. 33/16, OEA/Ser.L./V/II., doc. 38 (Jul. 29, 2016), https://www.corteidh.or.cr/docs/casos/articulos/resumen_362_esp.pdf.

²²² *Yarce et al v. Colombia*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 343 at ¶¶ 160, 163 (Nov. 22, 2016).

Adverse environmental conditions can violate human dignity.²²³ The 1972 Stockholm Declaration – largely viewed as the origin of modern global environmental law – recognizes the “fundamental right to freedom, equality, and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being.”²²⁴ The 1990 Hague Declaration expressly acknowledges “the right to live in dignity in a viable global environment.”²²⁵ The United Nations’ influential Ksentini Report concluded:

“Environmental damage has direct effects on the enjoyment of a series of human rights, such as the right to life, to health, to a satisfactory standard of living, to sufficient food, to housing, to education, to work, to culture, to non-discrimination, to dignity and the harmonious development of one’s personality, to security of person and family, to development, to peace, etc.”²²⁶

Various UN bodies have taken notice of the relationship between dignity and the environment. In its General comment No. 36 (2018) on Article 6 of the ICCPR (“the Right to Life”), the UN Human Rights Committee noted the need to “take appropriate measures to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity [including, *inter alia*] degradation of the environment.”²²⁷ The Committee explained that: “Implementation of the obligation to respect and ensure the right to life, and in particular life with dignity, depends, *inter alia*, on measures taken by States parties to preserve the environment and protect it against harm, pollution and climate change

²²³ See Erin Daly and James R. May, ‘Environmental Dignity Rights’ in Sandrine Maljean-Dubois (ed.), *The Effectiveness of Environmental Law* (Intersentia, 2017) 125-148; James R. May and Erin Daly, *Bridging Constitutional Dignity and Environmental Rights Jurisprudence* 7(2) *Journal of Human Rights and the Environment* (2016) 218-242 at 234; Dina Townsend, *Taking Dignity Seriously: A Dignity Approach to Environmental Disputes before Human Rights Courts*, 6(2) *Journal of Human Rights and the Environment* 204–225 (2015).

²²⁴ Declaration of the United Nations Conference on the Human Environment, Stockholm, 16 June 1972, UN Doc. A/CONF.48/14/Rev.1 (1973), 11 *International Legal Materials* (1972) 1416.

²²⁵ Hague Declaration on the Environment, the Hague, 28 *International Legal Materials* 1308, Mar. 11, 1989.

²²⁶ UN Economic and Social Council Sub-Commission on Prevention and Protection of Minorities, ‘*Human rights and the environment: Review of further developments in fields with which the sub-commission has been concerned*’, Final Report of Fatma Zohra Ksentini, UN Doc. E/CN.4/4.Sub.2/1994/9 (1994) para. 248.

²²⁷ International Covenant on Civil and Political Rights, Human Rights Committee, General comment No. 36 Article 6: right to life, UN Doc. CCPR/C/GC/36 (Sept. 3, 2019), para. 26.

caused by public and private actors.”²²⁸ More recently, the UN Human Rights Office of the High Commissioner noted:

“All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfill our aspirations or even live at a level commensurate with minimum standards of human dignity.”²²⁹

Domestic courts across the globe have also held that adverse environmental conditions can violate a right to human dignity. For example, in *Gbemre v. Shell Petroleum Development Company Nigeria Limited and Others*, a Nigerian lower court held in 2005 that gas flaring violated the petitioners’ constitutional “right to respect for their lives and dignity of their persons and to enjoy the best attainable state of physical and mental health as well as [the] right to a general satisfactory environment favourable to their development” and that the gas flaring activities formed “a violation of their said fundamental rights to life and dignity of human person and to a healthy life in a healthy environment.”²³⁰ In 2011, *Ntombentsha Beja v. Premier of the Western Cape*, the High Court of the Western Cape in Cape Town upheld a finding of the South African Human Rights Commission that the City’s failure to ensure safe sanitation violated right to human dignity.²³¹

Violations of dignity can result from myriad government actions, including actions that cause a toxic and contaminated physical environment in which children are forced to live.

²²⁸ *Id.* at para. 62.

²²⁹ UN Human Rights Office of the High Commissioner, *Special Rapporteur on human rights and the environment*, <<https://www.ohchr.org/EN/Issues/Environment/SREnvironment/Pages/SREnvironmentIndex.aspx>>.

²³⁰ *Gbemre v. Shell Petroleum Dev Corp & the Nigerian National Petroleum Corporation* (2005). *See generally*, James R. May and Tiwajopelo O. Dayo, *Dignity and Environmental Justice in Nigeria: The Case of Gbemre v. Shell*, 25 *Widener Law Review* 269, 269-84 (2019).

²³¹ *Ntombentsha Beja v. Premier of the Western Cape*, (3) All SA 401 (WCC) 2011 (S. Afr.).

3. Harms to Children Petitioners' Dignity

Threats to dignity manifest themselves in multiple ways, such as the inability to fully develop to each child's full potential, stigma to those who live near trash dumps and in other environmentally degraded conditions, feelings of abandonment and unworthiness, and unequal treatment and discrimination. These constitute violations of the children's right to live with dignity, as explained below.

a. Government Policies and Actions Thwart Children's Flourishing and Prevent the Full Development of their Personalities

The right to dignity is the right to fully develop one's personality and to reach one's full potential. As described below, governments must protect the dignity of children, whose minds and personalities are still developing and who are especially vulnerable. Yet, in profound, objective, and measurable ways, the landscape of waste in Cité Soleil is directly impairing the ability of children to grow, to learn, and to develop their identities. Dr. Saint Fort's examination of a sample of 15 children at SAKALA revealed how the pollution impairs the mental and cognitive capacities of the children:

- “* 100% of them had a neuro-psychiatric attack which had serious repercussions on their school learning.
- * 100% had problems concentrating which could be correlated with attention deficit hyperactivity disorder. However, hyperactivity and impulsivity were not always present.
- * The inability to pay attention to detail [is present]. Careless mistakes in schoolwork were present in 100% of cases as well as difficulty concentrating on a task and avoidance of work requiring prolonged effort.
- * About 53% of these children suffered from ongoing anxiety.
- * 60% of them had stress and headache on a [continuing basis].
- * 13.3% of them detected fairly worrying memory problems in them, which greatly affected their academic performance.”²³²

These conditions limit the ability of SAKALA's children to fully develop their personalities and have control over the course of their lives.

²³² Saint Fort, Exh. L, App. at 38.

b. Government Violates Children's Dignity by Stigmatizing Them

When people – and especially children – are stigmatized, their dignity is impaired: they feel less valued than others and their feelings of self-worth are diminished. This is a constant condition for the Children Petitioners. Even when a child like one of the Petitioners is feeling healthy enough to be able to play and interact with other children, they face the stigma of being “unclean” to the children of the wealthier areas in Haiti.²³³ Routine trips to the hospital as a result of dehydration and stomach problems related to going days without eating a proper meal are all very real issues to Petitioners.²³⁴ Daniel Tillias recounts his own childhood: “I went to elementary school outside of Cité Soleil. Early at age 6, I was already told that this is a place to leave ... I knew first-hand what it was to be treated with less regard because of what you have and what you look like. At school, I was bullied because I was the one coming from Cité Soleil. It was quite an incentive to be on the side of the marginalized.”²³⁵

These unsanitary conditions and the lack of comprehensive resolution in sight is especially impactful upon the social well-being and development of a child. As Dr. Dubique reports,

“[W]henver a child is stricken with malaria, typhoid or scabies . . . they cannot play with their friends or go to school, so they are forced to stay home and are deprived of interaction with other children. Socially, when you live in these neighborhoods that are infected with disease from the growing trash problem, it is difficult to show your friends your home and bring them to visit you. Your clothes are often dirty and smell of meat, fish or smoke because it is impossible to live in Cité Soleil with trash and dirty water that inundate your house and your community and manage to stay hygienic. Sincerely, it is not easy to cohabit with trash in Cité Soleil.”²³⁶

²³³ See A. Bras, C. Berdier, et al.; see also Dubique, Exh. H, App. at 16.

²³⁴ Bélizaire, Exh. G, App, at 12.

²³⁵ Tillias, Exh. J, App. at 26.

²³⁶ Dubique, Exh. H, App. at 16.

The forced isolation that results from the pervasive waste directly impacts the human dignity of the children because they are deprived of the ability to interact with others and are treated as less worthy than the rest of society.

Repeated exposure to any level of harassment and humiliation stemming from this stigma would burden any child's self-esteem.²³⁷ Growing up with such stigmatization and with no hope for the future severely impacts a child's chances of healthy social growth and development,²³⁸ and constitutes a violation of the right to dignity.

c. Government's Abandonment of Children Violates their Dignity

An essential aspect of human dignity is the feeling of being connected and valued by one's community, both at a personal and at a social level. But children like Petitioners are left with a feeling of abandonment from the outside world from an early age as a direct result of the conditions that surround them. This disconnects them from society and impairs their ability to fully develop their personalities.

The reports and testimonials are a tragic demonstration that the children of Cité Soleil have already lost hope in the future of their community. These children see the conditions of their community becoming increasingly deplorable each day. They have grown hardened to the fact that it has been this way for so long that it is all they know. They know that the problems are far too large for the community to manage. And yet, they are losing hope that anyone else will remediate them.

Dr. Dubique illustrates the feeling of abandonment that a child living among the trash in Cité Soleil experiences, reporting that “[i]n Cité Soleil, people always die young. Between 0-5

²³⁷ Marta Marelló, *Waste Pickers: Strategies to Enhance Livelihoods*, (Aug. 23, 2013), <http://www.bu.edu/pardeeschool/files/2014/08/Sample-Policy-Paper-1.pdf>.

²³⁸ Vanessa Hua, *Rise of the trash-picker collective*, Pacific Standard (Jan. 15, 2016), <https://psmag.com/environment/rise-of-the-trash-picker-collective>.

years [of age], a child could easily die due to lack of access to vaccinations, sanitary conditions, lack of parents [or consistent guardian/authority figure], lack of education in regards to health, and food insecurity.”²³⁹

The Children Petitioners experience an acute sense of abandonment. N.I. is a resident of Cité Soleil and only 15 years old but sees the daily buildup of trash throughout their neighborhood and is impacted by the lack of help from anyone outside the community to create a solution.²⁴⁰ N.I.’s heartbreaking testimonial is just one of the several provided herein and highlights the mentality of a child who has already lost hope for a solution, “because now we can’t save them.”²⁴¹

Continuing this way confirms to these children that their fears are correct and that their lives are not recognized as having equal worth. Now, the residents of Cité Soleil have been left to fend for themselves, leaving children especially vulnerable to short-term and long-term medical and developmental challenges that are otherwise preventable.²⁴² P.J. “would like Cité Soleil to find help so we can clean our area and everywhere can be clean”²⁴³ while M.Ca. would like to “find a sponsor to deal with the issue of trash in the country,” knowing that the government is unlikely to take on that responsibility.²⁴⁴

The government, however, refuses to acknowledge the Petitioners’ dignity. Community leaders have called attention to the waste conditions in Cité Soleil but to no avail. For example, in March 2018, leaders held a press conference atop piles of trash. Nonetheless, the government ignored their pleas for help and abandoned these communities.

²³⁹ Dubique, Exh. H, App. at 19.

²⁴⁰ N.I, Exh. E, App. at 8.

²⁴¹ *Id.*

²⁴² *See generally* Saint Fort, Exh. L, App. at 33; Bélizaire, Exh. G, App, at 12; Dubique, Exh. H, App. at 16; P.J. Exh. F, App. At 9.

²⁴³ P.J., Exh. F, App. at 9.

²⁴⁴ M.Ca., Exh. C, App. at 5.

d. Government Action that Discriminates Violates Human Dignity

In the Inter-American system, the right to dignity demands that governments recognize the agency and equality of every person. In acknowledging the link between equality and dignity, the Court has observed:

“[The] concept of equality can be inferred directly from the nature of humankind and is inseparable from the essential dignity of the individual; thus, any situation is incompatible with this concept that, considering a specific group to be superior, treat it in a privileged way or, inversely, considering it inferior, treats it with hostility, or, in any way, discriminates against it so that it cannot enjoy rights that are recognized to those who it does not consider included in that situation.”²⁴⁵

The statements of Witness #2, Dr. Dubique, Mr. Tillias, and others reveal that the conditions in Cité Soleil also discriminate against the poor residents of the district, violating the children’s rights to equal dignity.

The feelings of worthlessness are made worse by the fact that many of the wealthier communities have some form of waste collection service, while the poorest communities who need it the most are left with none.²⁴⁶ Dr. Dubique explains:

“We have to understand first the context of Cité Soleil and it[s] location with respect to wealthy neighborhoods. The richest areas are located above Port-au-Prince, while Cité Soleil is located in downtown Port-au-Prince near the sea. Cité Soleil is linked to these wealthy neighborhoods by the canals more than the roads. The section of a canal in a wealthy neighborhood is large, paved, and well-built, while the same canal in Cité Soleil is small and not paved, with contaminated water. As a result, the waste, trash, and water that flow from the wealthy neighborhoods down to Cité Soleil produce in Cité Soleil a mixed salad of trash that includes human waste, medical waste, industrial waste such as plastic bottles, plastic plates, syringes, and more.”²⁴⁷

Because of Cité Soleil’s role as the “Haitian trash dump,” the residents of the community have been unfairly considered the “waste of the country.”²⁴⁸

²⁴⁵ *Id.*

²⁴⁶ Dubique, Exh. H, App. at 15.

²⁴⁷ *Id.*

²⁴⁸ Daniel Tillias, *Wealth of Waste*, INDIEGOGO (2018), <https://www.indiegogo.com/projects/the-wealth-of-waste/#/>.

From Dr. Dubique's perspective, conditions in Cité Soleil could be ameliorated so that local children were not more disadvantaged than their peers in other parts of the country:

"I am not an economist, but I assume that the general annual cost of providing access to general medical treatment to an impoverished community of Port-au-Prince would be less than 4 million dollars USD of the Petro Caribe money (Venezuela has loaned money to Haiti with tax and it was mismanaged by the Haitian officials).²⁴⁹ These funds could be used to help repair and run the hospital Sainte Catherine and the CHAPI health center, as well as build two additional health centers. Funds being brought into Haiti for other reasons would go to much greater use if it were re-directed towards combating the growing waste issue. These funds would be helpful to decrease the incidence of diseases, hunger, and gang violence in Cité Soleil and improve the living conditions."²⁵⁰

The extreme societal differences between Cité Soleil and the rest of the country due to the difference in sanitary conditions leads many Haitians to unfairly see Cité Soleil as a community that is sub-standard in comparison and, as such, expect the children of the community to be less likely to reach their potential.²⁵¹

The government has allowed some children to grow up in and around trash dumps, while taking care of the children in other neighborhoods. This has contributed to a sense of social tension among different communities and the sense among the Petitioners that they have been discriminated against because they are poor. This unfair discrimination has a direct impact upon a child's social learning because social relationships are dependent upon the nature surrounding them.

The Haitian government's failure to address the environmental conditions detailed above violate the right to dignity in many different and compounding ways. Petitioners live in life-threatening conditions and are deprived of the most basic humanitarian needs. They lack access to adequate shelter, clean water, sanitation, food, education, and healthcare. They face discrimination

²⁴⁹ See Section F below.

²⁵⁰ Dubique, Exh. H, App. at 17.

²⁵¹ Cité Soleil, KONBIT BIBLIYOTÉK SITE SOLÉY, <https://www.konbitbibliyoteksitesoley.org/Cité-soleil>.

by society as they are considered the “trash kids of the country.”²⁵² These children know that their dignity is violated every day when they wake up in these inhumane conditions.

D. Violation of Right to a Healthy Environment

Environmental conditions violate the Petitioners’ Right to Life and to a Healthy Environment under Articles 4 and 26 of the Inter-American Convention on Human Rights. Thus, some aspects of the right to a healthy environment are at once enforceable as incidents to the right to life while others are enforceable progressively.

1. The Right to Life Incorporates a Right to a Healthy Environment

The right to life is well recognized in the Inter-American system. Article 4 of the American Convention provides: “Every person has the right to have his life respected. This right shall be protected by law ...”²⁵³ Relatedly, Article I of the American Declaration of the Rights and Duties of Man states that “every human being has the right to life, liberty and the security of his person.”²⁵⁴

In 2017, the Inter-American Court issued a landmark Advisory Opinion that recognized that the right to life includes the right to a healthy environment.²⁵⁵ It initially noted that “the right to life in the American Convention is essential because the realization of other rights depends on its protection.”²⁵⁶ States must therefore “take all appropriate measures to protect and preserve the right to life of all persons subject to their jurisdiction.”²⁵⁷

²⁵² Tillias, Exh. J, App. at 28.

²⁵³ Convention at art. 4.

²⁵⁴ American Declaration, at art. 1.

²⁵⁵ The Environment and Human Rights (Art. 4 Convention), Advisory Opinion OC-23/17, Inter-Am. Ct. H.R. (ser. A) No. 23, ¶ 108 (Nov. 15, 2017).

²⁵⁶ *Id.*

²⁵⁷ *Id.*

Importantly, the Court noted that vulnerable communities experience the violation of the right to life with “greater intensity.”²⁵⁸ Protection for vulnerable communities is nowhere more important than where environmental conditions violate the dignity of vulnerable communities, including the community of children. The Inter-American Court explained that “groups that are especially vulnerable to environmental degradation include communities that ... run a special risk of being affected owing to their geographical location ...”²⁵⁹ This concern applies to the Petitioners here who are especially vulnerable because they have no choice but to live in a community where trash is brought in, accumulates in overwhelming quantities, attracts disease-prone animals, floods into their streets and homes bringing waterborne diseases, and is burned day and night making the air toxic. Petitioners have no alternatives to living in these life-threatening conditions.

In its Advisory Opinion, the Court explained that the right to life includes the right to a healthy environment, noting the need for clean water for uses including, but not limited to, “consumption, sanitation, laundry, food preparation, and personal and domestic hygiene.”²⁶⁰ This was based in part on a 2010 decision in which the Court found that “the right to life encompasses the right to decent living conditions.”²⁶¹ For the Petitioners in this case, the right to life is violated by the Government’s denial of decent living conditions. This includes the unsanitary and dangerous environmental conditions that the government has created in Petitioners’ neighborhood, which prevent them from living lives of dignity.

The Commission as well has recognized that the right to life includes the right to a healthy environment, including the right to access to clean water. In 2007, the Commission affirmed that “there is a direct relationship between the physical environment in which persons live and the

²⁵⁸ *Id.* at ¶ 67.

²⁵⁹ *Id.*

²⁶⁰ *Id.* at ¶111.

²⁶¹ *Xákmok Kásek Indigenous Community v. Paraguay, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 214, ¶187 (Aug. 24, 2010).*

right[] to life [This] right is directly affected when there are episodes or situations of ... contamination of the water, pollution, or other types of environmental harm.”²⁶² And in 1997, the Commission found that “[c]onditions of severe environmental pollution, which may cause serious physical illness, impairment and suffering on the part of the local populace, are inconsistent with the rights to be respected as a human being.”²⁶³

Inter-American jurisprudence is consistent with the global recognition of the right to a healthy environment, which has been implied in the right to life for many years and in many different countries around the world.²⁶⁴ As an incident of the right to life under Article 4 of the Convention, the right to a healthy environment is at once enforceable.

By bringing trash from other parts of the City to the Petitioners’ neighborhood without creating a sanitary landfill and without a program for removing the trash, by allowing poor children to be exposed to unsanitary, disease-laden, and life-threatening environmental conditions, by not providing medical resources to the children’s community to address environmental illnesses, the government has violated the children’s right to life.

²⁶² *The Road Towards Strengthening Democracy in Bolivia*, Inter-Am. Comm’n H.R., OAS, OEA/Ser.L/V/II., doc. 34 ¶ 253 (Jun. 28, 2007).

²⁶³ *Report on the Situation of Human Rights in Ecuador*, Inter-Am. Comm’n H.R., OAS, OEA/Ser.L/V/II.96, doc. 10 rev. 1 (Apr. 24, 1997).

²⁶⁴ See, e.g., *Jonah Gbemre v. Shell Petroleum Dev. Co. Nigeria Ltd. et al*, Suit No. F.H.C./B/CS/53/05 Nov 30, 2005 (“constitutional guarantee of right to life and dignity of human person, available to them as citizens of Nigeria, includes the right to clean, poison-free and pollution-free air, and [a] healthy environment, conducive for human beings to reside in for our development and full enjoyment of life”); *Subhash Kumar v. State of Bihar*, (1991) AIR 420, 1991 SCR (1) 5 (India) (“the right to life is a fundamental right and it includes the right of enjoyment of pollution free water and air for full enjoyment of life”); *M.C. Mehta v. Union of India* (1996) 1987 SCR (1) 819, AIR 1987 965 (accord); *Ashgar Leghari v. Federation of Pakistan* at ¶ 23. (“the right to a healthy and clean environment [and that] the “Right to Life...protect[s] and realise[s] human rights in general, and the human right to water and sanitation in particular.”); *Pro Public v. Godavari Marble Industries Pvt. Ltd.*, 068-WO-0082 (2015) at pg.13-14 (Supreme Court of Nepal) (“[r]etaining the existence of life is not at all possible in a polluted environment.”); *Dr. Mohiuddin Farooque v. Bangladesh*, (2001) W.P. No. 891 (Supreme Court of Bangladesh) (“protection and preservation of the environment, ecological balance free from pollution of air and water, and sanitation, without which life can hardly be enjoyed. An act or omission thereto will be violative of the Right to Life.”)

2. Protection of the Full Realization of the Children’s Environmental Rights

The devastating environmental conditions also violate Petitioners’ rights to progressive realization of economic, social and cultural rights under Article 26 of the Convention and Article 34 of the OAS Charter.²⁶⁵ Article 26 provides:²⁶⁶

“The States Parties undertake to adopt measures, both internally and through international cooperation, especially those of an economic and technical nature, with a view to achieving progressively, by legislation or other appropriate means, the full realization of the rights implicit in the economic, social, educational, scientific, and cultural standards set forth in the Charter of the Organization of American States as amended by the Protocol of Buenos Aires.”

In turn, Article 34 of the OAS Charter states, in pertinent part:²⁶⁷

“The Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the following basic goals: Urban conditions that offer the opportunity for a healthful, productive, and full life.”

The Inter-American Court has held that violations of Article 26 are actionable.²⁶⁸ As the Court explained in its 2017 Advisory Opinion: “Article 26 of the American Convention establishes the obligation of international cooperation with a view to development and protection of economic, social and cultural rights.”²⁶⁹ The Court has recently reinforced the primacy of environmental quality in the 2020 landmark contentious decision of *Indigenous Communities Members of the Lhaka Honhat Association v. Argentina*, which held that Article 26 incorporates a right to a healthy environment as part of “a united effort of the States Parties to the OAS Charter . . . [that] ensure[s]

²⁶⁵ Convention, at art. 26; Organization of American States (OAS) Charter art. 34.

²⁶⁶ Convention, at art. 26.

²⁶⁷ OAS Charter Art. 34(1).

²⁶⁸ *Lagos del Campo v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 340 (Aug. 31, 2017).

²⁶⁹ Inter-Am. Ct. H.R. Advisory Opinion OC-23/17, at ¶108.

international social justice in their relations and integral development for their peoples, as conditions essential to peace and security.”²⁷⁰

Nowhere is this more apt than in the situation of the poor children of Cité Soleil, Haiti, who live in landscapes of waste and toxic trash where poverty, discrimination, chronic disease, and youth reinforce the children’s vulnerabilities. The Petitioner Children here have no opportunities for physical integrity or integral development and no possibility of living lives of dignity in decent conditions.

The Court has explained the indivisibility of these rights in the context of Article 26: “[A]ccess to water, food and health are obligations to be realized progressively; however, States have immediate obligations, such as ensuring these rights without discrimination and taking measures to achieve their full realization.”²⁷¹ In addition, in *Yakye Axa Indigenous Community v. Paraguay*, the Court also found that Article 26 of the Convention is relevant in evaluating a State’s efforts toward progressive realization of environmental rights.²⁷² Article 26 is of special importance, the Court noted, where, as here, a State is responsible for the harmful conditions and has failed to remediate them.²⁷³ Moreover, the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (“Protocol of San Salvador”) recognizes a right to a healthy environment.²⁷⁴

Domestic courts have also provided guidance about progressive realization of the kinds of socioeconomic rights relevant here. For example, the Constitutional Court of South Africa has held

²⁷⁰ *Lhaka Honhat Ass’n v. Argentina*, ¶ 64-65 (2020).

²⁷¹ *Id.*

²⁷² *Yakye Axa Indigenous Community v. Paraguay*, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 125 (Jun. 17, 2005).

²⁷³ *Id.* at ¶ 157(e).

²⁷⁴ Organization of American States (OAS), Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (“Protocol of San Salvador”), Nov. 16, 1999. Article 11 provides: “Right to a Healthy Environment: (1) Everyone shall have the right to life in a healthy environment and to have access to basic public services; (2) The States Parties shall promote the protection, preservation, and improvement of the environment.”

that “[s]ocio-economic rights must all be read together ... as a whole [and] [t]heir interconnectedness needs to be taken into account in interpreting the socio-economic rights, and, in particular, in determining whether the state has met its obligations in terms of them.”²⁷⁵ It has also underscored the need for government “to take measures to achieve the progressive realisation of the right.”²⁷⁶ Importantly, the Court ultimately held that the right of access to sufficient water requires the State “to take reasonable legislative and other measures progressively to realise the achievement of the right of access to sufficient water, within available resources.”²⁷⁷ And the Constitutional Court of Colombia has determined that “when the effective enjoyment of a fundamental [right] depends on progressive realization, the minimum that the responsible authority must do ... is, precisely, to develop a program or a plan as a path to the effective enjoyment of the rights.”²⁷⁸

Petitioners are exposed to myriad health hazards that thrive in the trash and contaminated water that is ever-present in their homes, on their streets, and in the places where they walk, play, and go to school. Petitioners are suffering daily from the grave impacts of the government’s actions as well as its failure to act. They are suffering from life-threatening illnesses such as diarrhea, malaria, and respiratory issues that are avoidable if the government were to remedy the environmental conditions in which Petitioners live.²⁷⁹

All of Petitioners’ experts agree that these effects are both preventable and caused by the government’s failure to act.²⁸⁰ Rather than address these problems, the government actively contributes to the deterioration of the environmental conditions by continuing to add to the trash

²⁷⁵ South Africa v. Grootboom 2000 (CCT 11/00), 2001 (1) SA 46, BCLR 1169.

²⁷⁶ Mazibuko v. City of Johannesburg 2009 (CCT 39/09), 2010 (3) BCLR 239, 2010 (4) SA 1 (S. Afr.) at ¶ 40.

²⁷⁷ *Id.* at ¶ 50.

²⁷⁸ Corte Constitucional [C.C.] [Constitutional Court], April 29, 2009, Sentencia T-291/09 (Colom.) [hereinafter “Recyclers Case”].

²⁷⁹ See Dubique, Exh. H, App. at 15; Bélizaire, Exh. G, App. at 11; Saint Fort, Exh. L, App. at 34-38.

²⁸⁰ See Dubique, Exh. H, App. at 15-16; Bélizaire, Exh. G, App. at 11; Saint Fort, Exh. L, App. at 33-35.

piles, by not keeping adequate waste removal and canal dredging,²⁸¹ and by placing the city's only trash dump in the poor residential neighborhood of Cité Soleil.²⁸²

In sum, the accumulation of trash, the persistent flooding of the canals, and the constant burning of trash result from the government's decision to bring trash into Cité Soleil and its failure to make or implement a plan to dispose of it properly. These conditions contribute to chronic and acute disease and causes inhumane living conditions for every person – including especially the Children Petitioners – who live in houses that border the canals, who must walk to school, to the store, or to SAKALA across trash-filled canals and flooded streets, and who must inhale the stench and the fumes and see the ugliness of watery trash everywhere. These conditions violate the right to a healthy environment that the American Convention guarantees both as an immediately enforceable right and as a right to be progressively realized.

E. Violation of Right to Judicial Protection

The failure of the government to set up and support a functioning and independent judicial system in Haiti is a violation of Petitioners' rights to judicial protection and prevents them from protecting their environmental and dignity rights as children guaranteed under the American Convention. Article 25 provides: "Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties."²⁸³ The right to judicial protection includes access to prompt and effective recourse before a competent court or tribunal for protection against the violation of fundamental rights recognized by the domestic laws of the state or by the Convention.

²⁸¹ See Dubique, Exh. H, App. at 15; Bélizaire, Exh. G, App. at 11; Saint Fort, Exh. L, App. at 33-34.

²⁸² P.J., Exh. F, App. at 9.

²⁸³ Convention, art. 25.

In applying Article 25, the Commission and Court have confirmed that states must ensure access “to adequate and effective judicial recourse for purposes of bringing claims and seeking appropriate reparation for violations of their human rights caused by environmental damage.”²⁸⁴ This imposes on states two distinct obligations: (1) to ensure access to adequate and effective judicial recourse, and (2) to ensure proper reparations or remedy for violations. The government of Haiti has failed Petitioners on both counts. In addition, the deterioration of the security situation in Haiti has exposed human rights defenders to death and threats of death. This situation is detailed below in the section on Precautionary Measures; it is addressed here as far as it limits opportunities for bringing human and environmental rights claims in the domestic courts of the country.

1. Failure to Ensure Access to Judicial Recourse

The current anemic state of the judicial system in Haiti fails to ensure access to adequate and effective recourse for environmental and dignity rights and rights specifically designed to protect vulnerable children. The systemic failures are not unique to these Petitioners nor are they a temporary condition. Rather, the present conditions in Haiti are worsened under the current lawlessness pervading all aspects of life in Haiti. Such conditions violate the rights of the Children represented in this petition, who suffer daily from environmental conditions that threaten their rights guaranteed under international law, regional human rights law, and the constitutional promises that Haiti has made to its own people.

The judiciary and other domestic governmental apparatus have been in various forms of crisis due to under-investment in institutions.²⁸⁵ Under the military government of François

²⁸⁴ Office of the United Nations High Commissioner for Human Rights, *Mapping Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment*, Report No. 13, ¶ 62 (Dec. 2013).

²⁸⁵ Richard A. Haggerty, ed. *Haiti: A Country Study*. Washington: GPO for the Library of Congress (1989) <http://countrystudies.us/haiti/64.htm>.

Duvalier, the court system was “virtually suspended”²⁸⁶ and it has never fully recovered. The already weak judiciary does not function as directed by the Constitution, does not protect the rights of the people, and leaves masses of citizens excluded from the court system and due process.²⁸⁷

Compounding the absence of judicial protection is that the Superior Court of Accounts and Administrative Litigation has been prohibited from reviewing executive actions that formerly fell within its jurisdiction.²⁸⁸

Without a functioning court system, there is no judicial recourse. The right to judicial recourse is “one of the basic pillars not only of the American Convention, but also of the very rule of law in a democratic society in the sense of the Convention.”²⁸⁹ The Inter-American Court has repeatedly acknowledged the paramount importance of “the right to a simple and prompt recourse, or any other effective recourse, to a competent court or judge for protection against acts that violate [a person’s] fundamental rights.”²⁹⁰ Importantly, the Court has also found that access to justice in fact “guarantees the full realization of the rights to public participation and access to information, through the corresponding judicial mechanisms.”²⁹¹ This is especially so in cases related to the violation of the rights of children.²⁹²

The Court has recognized that the right to access to justice under Article 25 of the Convention also applies to cases involving environmental rights: “access to justice permits the individual to ensure that environmental standards are enforced and provides a means of redressing

²⁸⁶ *Id.*

²⁸⁷ *Id.*

²⁸⁸ Florvilus, Exh. I, App. at 25.

²⁸⁹ Street Children at ¶ 234.

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² See *Guatemalan Street Children*, (holding that Guatemala violated Article 25 to the detriment of the petitioners); *Yakye Axa*, (finding that Paraguay abridged the rights embodied in Article 25); *Case of the Sawhoyamaya Indigenous Community v. Paraguay, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 146 (Mar. 29, 2006)* (holding that the state “failed to adopt the appropriate domestic law measures necessary to ensure an effective procedure providing a final solution to the claim” of the indigenous community); and *Case of Claude-Reyes et al. v. Chile, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 151 (Sept. 19, 2006)* (concluding that the “State violated the right to judicial protection embodied in Article 25(1) of the American Convention . . . by failing to guarantee [the petitioners] a simple, prompt, and effective recourse.”)

any human rights violations that may result from failure to comply with environmental standards.”²⁹³ The Commission has found that “[w]here the right to life ... has been infringed upon by environmental contamination, the Government is obliged to respond with appropriate measures of investigation and redress,” thereby extending the State’s responsibilities related to access to justice to the investigation and redress of such claims in addition to providing a domestic judicial mechanism in which such claims can be heard.²⁹⁴ The failure of the State to provide access, investigation, and redress constituted violations of Articles 3, 8, and 25 of the Convention in that case²⁹⁵ and would in this case as well.

The Commission has also directly addressed the link between the violation of rights to judicial access under State constitutions and under the Convention, specifically in relation to environmental conditions. The Commission recommended that the state of Ecuador take measures to ensure that access to justice is more fully afforded to individuals who lodge “claims alleging the violation of their rights under the [Ecuadorian] Constitution and the American Convention, including claims concerning the right[s] to life and to live in an environment free from contamination.”²⁹⁶ Similarly, the Haitian Constitution includes a right to life,²⁹⁷ environmental protection,²⁹⁸ and access to the courts²⁹⁹ but the lack of a functioning domestic judicial system violates the Petitioners’ rights under the domestic instrument in addition to violating the Petitioners’ rights under the Convention.

The Inter-American Court has emphasized that the mere existence of a domestic judicial system is not enough: the system must be functioning and effective. The Court has said, as related to Article 25 of the Convention:

²⁹³ Inter-Am. Ct. H.R. Advisory Opinion OC-23/17 ¶ 234.

²⁹⁴ Office of the United Nations High Commissioner for Human Rights, cited, at ¶127.

²⁹⁵ Sawhoyamaya Indigenous Community, (ser. C) No. 146, at ¶¶ 74-112.

²⁹⁶ Office of the United Nations High Commissioner for Human Rights, cited, at ¶ 62.

²⁹⁷ Constitution de la République d’Haïti, art. 19.

²⁹⁸ *Id.*, arts. 253-258.

²⁹⁹ *Id.*, art. 42.

“the inexistence of an effective recourse against the violation of the rights recognized by the Convention constitutes a transgression of the Convention by the State Party in which such a situation occurs. In that respect, it should be emphasized that, for such a recourse to exist, it is not enough that it is established in the Constitution or in the law or that it should be formally admissible, but it must be truly appropriate to establish whether there has been a violation of human rights and to provide everything necessary to remedy it.”³⁰⁰

The Court and the Commission have addressed Haiti’s failure to ensure the right to judicial access at least twice since 2008.

In *Yvon Neptune v. Haiti*, (2008) the Court asserted that state parties have an obligation to provide “effective judicial recourse to those who allege that they are victims of human rights violations (Article 25).” Importantly, as related to Haiti, the Court said that “[i]t is evident that the mere formal existence of the recourse is insufficient, it must also be effective, that [is], it must provide results or a response to the violations of the rights established in the Convention.”³⁰¹ The Court concluded that due to the “absence of guarantees, juridical uncertainty and the inability of the judicial institutions to deal with facts such as those of the instant case, the international responsibility of the State has arisen because it has failed in its obligation to guarantee Mr. Neptune’s right to accede to, and be heard within a reasonable time by, a competent court,” thereby violating the rights guaranteed by Articles 8(1) and 25 of the American Convention.³⁰² Likewise, in this case, the children simply have no possibility of exercising their “right to accede to, and be heard within a reasonable time by, a competent court.”³⁰³

Lysias Fleury et al. v. Haiti (2011) concerned the detention and cruel, inhuman, and degrading treatment of Lysias Fleury and the denial of access to justice for him and his family.³⁰⁴

The Commission recommended the case to the Inter-American Court after concluding that Haiti

³⁰⁰ *Yakye Axa Indigenous Community v. Paraguay*, Merits, Reparations, and Cost, Judgment, Inter-Am. Ct. H.R., (ser. C) No. 125, para. 61 June 17, 2005.

³⁰¹ *Yvon Neptune*, (ser. C) No. 180, ¶ 2, ¶ 51, at ¶ 77.

³⁰² *Id.* at ¶ 86.

³⁰³ *Id.*

³⁰⁴ *Lysias Fleury and Family v. Haiti*, Case 12.459 Inter-Am. Comm’n H.R., Appl. with Inter-Am. Ct. H.R., ¶ 1 (Aug. 5, 2009).

did not provide Mr. Fleury or his family with “a simple and prompt remedy or any other effective remedy before a competent judge or court.”³⁰⁵ The Court reiterated the State’s obligation to provide effective judicial remedies to those who allege they are victims of human rights violations citing Article 25.³⁰⁶ The Court further affirmed that the State has a positive obligation to investigate, prosecute, and as appropriate, punish human rights violations to ensure the rights recognized by the Convention.³⁰⁷ Importantly, this obligation is “an *inherent* legal obligation,” (emphasis added) not merely a formality that relies upon the “procedural initiative of the victims or their next of kin, or upon the production of evidence by private individuals.”³⁰⁸ Parties have repeatedly turned to the Inter-American Commission and Court for relief due to the inadequate or inaccessible domestic judicial system in Haiti and elsewhere,³⁰⁹ just as these youths are doing now.

The ineffective domestic judicial system in Haiti has not improved despite multiple judgments by the Inter-American Court of Human Rights finding these violations.

2. Denial of Access to Judicial Remedies

Judicial remedies are a critical right within the Inter-American system.³¹⁰ The right to judicial protection requires that States also provide the enforcement of remedies when they are

³⁰⁵ *Lysias Fleury et al. v. Haiti, Merits and Reparations, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 236, ¶ 103 (Nov. 23, 2011).*

³⁰⁶ *Id.* at ¶ 105.

³⁰⁷ *Id.* at ¶ 106.

³⁰⁸ *Id.*

³⁰⁹ *See Sawhoyamaya Indigenous Community v. Paraguay* (holding that the state “failed to adopt the appropriate domestic law measures necessary to ensure an effective procedure providing a final solution to the claim” of the indigenous community); *Raposa Serra Do Sol Indigenous Peoples, Brazil, Inter-Am. Comm’n H.R., OAS, Admissibility Rpt. No. 125/10, Petition 250-04 (Oct. 23, 2010)* (finding the petition admissible that claimed severe environmental degradation affected the victims and if the claims are proven, the state violated Article 25); *Inter-Am. Ct. H.R. Advisory Opinion OC-23/17* (concluding that access to justice provides a mechanism for the individual to ensure environmental standards are enforced); and *Inhabitants of the Areas Near the Santiago River Regarding Mexico, Precautionary Measure No. 708-19, Resolution 7/2020 (Inter-Am. Comm’n H.R. Oct. 23, 2010)* (granting Precautionary Measures against the state for the alleged environmental contamination in the Santiago River and failure of State authorities to adequately respond to the complaints).

³¹⁰ *See Inter-Am. Comm’n H.R. OAS, Access to Justice as a Guarantee of Economic, Social, and Cultural Rights. A Review of the Standards Adopted by the Inter-American System of Human Rights, OEA/Ser.L/V/II.129, doc. 4. (Sept. 7, 2007).*

granted.³¹¹ In this context, in a case from Peru, the Court found admissible as a potential violation of Article 25 a claim by the community petitioners that the “Peruvian authorities facilitated the continued existence of a toxic waste dump near San Mateo causing environmental pollution and adverse health effects” despite judicial orders to close the site.³¹² The Commission and the Court confirmed that environmental damage can give “rise to duties to remedy damage on the part of the State” that includes a positive obligation to “adopt all measures at its disposal to mitigate that damage to provide access to justice by those adversely impacted by the effects on the environment.”³¹³ By failing to provide an adequate judicial system, the State has violated Petitioners’ rights to judicial protection in terms of access, recourse, remedies, and enforcement.

The Commission has concluded: “States not only have a negative obligation not to obstruct access to those remedies but, in particular, a positive duty to organize their institutional apparatus so that all individuals can access those remedies.”³¹⁴ Ultimately, this obligation requires states to “remove any regulatory, social, or economic obstacles that prevent or hinder the possibility of access to justice.”³¹⁵

The requirement of the State to offer and support effective domestic remedies has been repeatedly emphasized in the jurisprudence of the Inter-American Court. The Court acknowledged that “Article 25 is closely linked to the general obligation in Article 1.1 of the American Convention, in that it assigns duties of protection to the State Parties through their domestic legislations,” making it clear that the State not only has the obligation to issue legislation that supplies an effective recourse, but that the State must also ensure that the laws supplying recourse are heard and enforced by its judicial authorities.³¹⁶

³¹¹ Convention, art. 25(2)(c).

³¹² Office of the United Nations High Commissioner for Human Rights, cited, ¶ 63.

³¹³ *Id.*, ¶ 64.

³¹⁴ *Id.*, ¶ 1.

³¹⁵ *Id.*

³¹⁶ Street Children, ¶ 237.

Although the right to access to justice is found in the Haitian Constitution,³¹⁷ and the Haitian legislature has passed laws that could offer protections, the State has failed to implement and enforce such protections.³¹⁸ After a 2007 visit to Haiti, the Commission concluded that “Haiti’s institutions remain weak, under-resourced, under-staff[ed], poorly trained and disorganized. As a result, state institutions are barely capable of performing their functions adequately, corruption is rife . . .”³¹⁹ These problems are encapsulated in the system of judicial appointments.³²⁰

The Commission has also noted that the lack of effective investigation or prosecution of high-profile cases of human rights atrocities “are numerous and stretch back into much of Haiti’s recent history.”³²¹ The long-term problem of impunity for human rights violations has lowered public confidence in the justice system.³²² The Commission has reiterated Haiti’s obligation to end impunity for human rights abuses through fair and effective procedures with emphasis on “the corresponding rights of all persons to due process of law and to be heard by a competent, independent, and impartial tribunal, without discrimination of any kind.”³²³ The United Nations, various apparatuses of the Organization of American States, and others have also documented the critical deficiencies in the administration of and access to justice in Haiti.³²⁴

³¹⁷ Constitution de la République d’Haïti, art. 42.

³¹⁸ Republic of Haiti, *Submission to the United Nations Universal Periodic Review*, 12th Session of the Working Group on the UPR HRC ¶ 8 (Oct. 3-14, 2011).

³¹⁹ *Observations of the Inter-American Commission on Human Rights Upon Conclusion of its April 2007 Visit to Haiti*, ¶ 62.

³²⁰ Constitution de la République d’Haïti at art 175, (providing that “Supreme Court justices are appointed by the President of the Republic from [sic] a list submitted by the Senate of three (3) persons per court seat. Judges of the Courts of Appeal and Courts of First Instance are appointed from a list submitted by the Departmental Assembly concerned; Justices of the Peace are appointed from a list draw [sic] up by the Communal Assemblies”).

³²¹ Inter-Am. Comm’n H.R., Organization of American States (OAS), *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser.L/V/II.123, doc. 6 rev. ¶ 179 (Oct. 26, 2005).

³²² *Id.*, ¶ 177.

³²³ *Id.*, ¶ 180.

³²⁴ See Inter-Am. Comm’n H.R., Organization of American States (OAS), *Haiti: Failed Justice or the Rule of Law? Challenges Ahead for Haiti and the International Community*, OEA/Ser.L/V/II.123, doc. 6 rev. ¶ 177-179 (Oct. 26, 2005); Inter-Am. Comm’n H.R., OAS, *Observations of the Inter-American Commission on Human Rights Upon Conclusion of its April 2007 Visit to Haiti*, OEA/Ser.L/V/II.131, doc. 36 ¶ 62 (Mar. 2, 2008); Human Rights Council 38th Session U.N. Doc. A/HRC/38/30, at ¶ 40 (May 15, 2018) (development of a national action plan to implement recommendations of human rights mechanisms in Haiti); and *Annual Report of the Special Rapporteurship on*

Despite these reports and actions by international organizations, actual investment in reform in the judicial sector has been insufficient and inconsistent.³²⁵ The political situation in Haiti has remained unstable such that judicial reform passed decades ago intended to strengthen the independence of the judiciary has not been implemented or enforced.³²⁶ Though domestic instruments designate the *Ministère de la Justice et de la Sécurité Publique* as responsible for the administration of justice in Haiti, including the task of managing the operation of the courts and addressing the shortcomings of the system,³²⁷ the institution remains dysfunctional.

Added barriers to judicial access plague the residents of Cité Soleil. Class discrimination disproportionately impacts Haiti's poorest residents, particularly the residents of Cité Soleil, and as a result, they are systemically excluded from access to social services.³²⁸ The justice system reinforces this social, political, and economic exclusion, thus preventing the poorest and most vulnerable Haitians from asserting fundamental rights.³²⁹ Throughout the country, the system is built to favor the wealthy and powerful, from the language spoken to the resources necessary to initiate litigation.³³⁰ Creole and French are Haiti's official languages,³³¹ though French is only spoken by 20-40% of Haitians – those who learn it in well-resourced schools. Yet, legal proceedings are conducted *only* in French.³³² Given this language barrier, it is impossible for indigent communities to have full access to due process and the judicial system to vindicate their fundamental rights. Additionally, class discrimination reinforces “a culture of impunity in the

Economic, Social, Cultural and Environmental Rights, Inter-Am. Comm'n H.R., OAS, OEA/Ser.L./V/II., doc.5 ¶ 364 (Feb. 24, 2020).

³²⁵ Republic of Haiti, *Submission to the United Nations Universal Periodic Review*, 12th Session of the Working Group on the UPR HRC ¶ 10 (Oct. 3-14, 2011).

³²⁶ *Id.*

³²⁷ *Id.*, ¶ 9.

³²⁸ Boston College, ¶ 2.

³²⁹ *Id.*, ¶ 3.

³³⁰ *Id.*, ¶ 5.

³³¹ Constitution de la République d'Haïti at art 5.

³³² Republic of Haiti, *Submission to the United Nations Universal Periodic Review*, 12th Session of the Working Group on the UPR HRC ¶ 35 (Oct. 3-14, 2011).

justice system” as it is a system controlled by the elite that continually fails to hold the government accountable for corruption and human rights abuses.³³³

Systemic problems plague the civil and administrative systems that would normally be the proper venues for Petitioners to seek remedies for the violation of their fundamental human rights as guaranteed by the Convention and the Haitian Constitution. Over the last decade, the IACHR has issued multiple precautionary measures on behalf of human rights defenders in Haiti who were working on behalf of the most vulnerable Haitians affected by the devastation of the 2010 earthquake and its aftermath.³³⁴

Recent unlawful appointments and removals of judges and justices in direct contradiction to the Constitutional articles have also hampered the judicial system. Additional illegitimate action includes the installation of justices chosen by the Prime Minister, ignoring the procedures for nominating and appointing justices.³³⁵ All of these conditions impair Petitioners’ access to effective judicial remedies to ameliorate the conditions in which they live and that constitute violations of their rights protected under national and Inter-American law.

3. Threats Against Human Rights Defenders

The domestic judicial system of Haiti is incapable of addressing the violations of the Petitioners’ fundamental rights because of systemic failures and inadequacies. Decades of political upheaval have led to abuses of power in the appointment and removal of judges and justices. More recently, the Court of Appeal of Port-au-Prince has been “dysfunctional” as “litigants, court staff and court officials avoid frequenting the courthouse” due to the ongoing risk of violence against

³³³ Boston College, para. 8.

³³⁴ See Mario Joseph, *Regarding Haiti, Precautionary Measures*, PM 363/12 (Inter-Am. Comm’n H.R., Oct. 19, 2012). and Patrice Florvilus et. al. *Regarding Haiti, Precautionary Measures*, PM 304/13 (Inter-Am. Comm’n H.R., Nov. 27, 2013).

³³⁵ Republic of Haiti, *Submission to the United Nations Universal Periodic Review*, 12th Session of the Working Group on the UPR HRC, ¶38.

them.³³⁶ The risks are proven real by the assassination in August 2020 of the leader of the Port-au-Prince bar association, among other human rights advocates.³³⁷ The legitimacy of the court system has been questioned by numerous international bodies, leaving little doubt that the domestic judicial system is incapable of ensuring the Petitioners' rights to judicial access as guaranteed by Article 25 of the Convention and Articles 19 and 42 of the Haitian Constitution.

In sum, Haiti has failed to supply effective and competent recourse for human rights violations. Haiti's judicial system prevents Petitioners from pursuing the many claims of human rights violations in violation of Article 25's right to judicial protection. As such, Petitioners have no other recourse but to turn to international bodies for protection of the human rights violations against them.

³³⁶ Florvilus, Exh. I, App. at 24.

³³⁷ Sandra Lemaire, *Killing of Port-au-Prince Bar Association Chief Roils Haiti*, VOA News, (Sept. 11, 2020) <https://www.voanews.com/americas/killing-port-au-prince-bar-association-chief-roils-haiti>.

V. PRECAUTIONARY MEASURES

The Inter-American Commission Rules of Procedure afford the Commission authority to receive and grant requests for Precautionary Measures where “serious and urgent situations present a risk of irreparable harm.”³³⁸ OAS Member States including Haiti are under an international obligation to follow requests for such measures.³³⁹

A. Precautionary Measures for Environmental Conditions

Precautionary measures are proper in this case because the environmental conditions described here meet the requirements of seriousness, urgency, and irreparability in Article 25 of the Commission’s Rules of Procedure. These conditions worsen daily, causing irreparable harm to the Children Petitioners. Each day, more trash is brought to Cité Soleil where the children live and go to school, and each day the children are forced to walk across canals of solid trash and cross rivers of contaminated water flowing down the streets, risking infections and diseases from water-borne bacteria. Each day, more trash is burned, spewing fumes and toxins into the air that children breathe. These environmental hazards cause irreparable harm to the developing bodies of Children Petitioners who suffer from preventable but life-threatening illnesses and chronic conditions as described by Dr. Saint Fort, Dr. Bélizaire, and Dr. Dubique. Moreover, each day that the environmental conditions worsen, the children’s ability to get to school, to play with their friends, and to feel secure in their homes is compromised. And these challenges – along with the knowledge that other children in their own city and in their country do not face similar discrimination – violate their human dignity daily. Children are especially vulnerable to these injuries and are likely to continue to suffer from these irreparable harms for the rest of their lives.

³³⁸ Inter-Am. Comm’n H.R. Rules of Procedure, Art. 25.1.

³³⁹ See Convention, Fifth Report on the Situation of Human Rights in Guatemala, OEA/Ser.L/V/II.111 doc. 21 rev., paras 71-72 (2001); Juan Raul Garza v. United States, Case No. 12.243, Inter-Am Comm’n.H.R., Report No. 52/01 OEA/Ser.L/V/II.111, doc. 20, rev. (2000); Annual Report of the Inter-Am. Comm’n.H.R. 2000, para 117.

In 2017, the Commission issued Precautionary Measures in a case from Peru involving an oil spill that had taken place three years before. The Commission found that “the alleged contamination continue[d] to have effects, notwithstanding the passage of time.”³⁴⁰ In that situation, certain heavy metals, including cadmium and mercury, were found to be above recommended levels.³⁴¹ In this case, by contrast, there are no "recommended levels" of raw sewage, medical waste, plastics, and other organic and inorganic material in the water that children walk through and that seeps into their houses. Nor are there "recommended levels" of toxic fumes that children breathe from the time they wake up in the morning to the time they go to bed at night. In the Peruvian case, the Commission requested that the State “adopt the necessary measures to protect the life and physical integrity of those who live in the identified communities.”³⁴² In this case, the exposures have lasted for more than a decade – most or all these children’s lives. Moreover, there is no chance that the government of Haiti will protect the lives, physical integrity, and dignity of these Children Petitioners unless the Commission requests Precautionary Measures.

In another similar case, from 2020, the Commission requested that Mexico “take the measures necessary to protect the rights to life, personal integrity and health of the proposed beneficiaries, due to the alleged environmental contamination in the Santiago River and Lake Chapala.”³⁴³ The Precautionary Measures were designed to protect the “rights to life, personal integrity and health” of “the inhabitant in the areas up to 5 kilometers from Santiago River” in several named municipalities.³⁴⁴ The Commission found that the “alleged contamination is mainly received through the daily exposure to the pollutants which flow through the river, be it through

³⁴⁰ Press Release, Inter-Am. Comm’n H.R., IACHR Grants Precautionary Measure for the Communities of Cuninico and San Pedro in Loreto, Peru, https://www.oas.org/en/iachr/media_center/PReleases/2017/205.asp.

³⁴¹ *Id.*

³⁴² *Id.*

³⁴³ Inhabitants of the Areas Near the Santiago River Regarding Mexico, Precautionary Measure No. 708-19, Resolution 7/2020 (Inter-Am. Comm’n H.R. Oct. 23, 2010).

³⁴⁴ *Id.*

physical contact with the water used by the population for agricultural means, or by breathing the pollutants which volatilize in the air, principally in the El Salto waterfall.”³⁴⁵ The Children Petitioners, by contrast, live not 5 km from the pollution but next to it, in it, and on it. They have no choice but to walk in the contaminated water, breathe the toxic air, and touch the waste with their hands and feet as they walk to school or to SAKALA. They have no choice but to wake up in homes of stagnant malarial dirty water when there is rain somewhere nearby. They have no choice but to carry their sisters and brothers across infested canals, hoping they do not fall in. And they do this every day.

Indeed, the situation for these Petitioners is far worse than in most cases of environmental degradation, precisely because the situation is not stable but worsening every day and because no judicial or political remedy is available to them. The need for precautionary measures is underscored by recent political instability, corruption, lack of security, and worsening economic conditions, which all point to increasingly urgent situations that are not remediable by the government and that present risks of irreparable harm to children.

B. Political Insecurity Threatens Environmental Stewardship

In 2019 and 2020, the High Court of Auditors released a series of reports concerning the mismanagement of funds from an initiative known as Petro Caribe. Petro Caribe is “a loan program designed to help Caribbean countries create their own development funds, thereby decreasing their reliance on Western aid.”³⁴⁶ The Court reports found that the Haitian government had mismanaged USD \$2 billion of this development fund.³⁴⁷

³⁴⁵ *Id.*

³⁴⁶ Sandrine Gagné-Acoulon, *Watchdog: Haitian Gov Mishandled Development Scheme*, OCCRP (Aug. 21, 2020), <https://www.occrp.org/en/daily/12995-watchdog-haitian-gov-mishandled-development-scheme>

³⁴⁷ *PetroCaribe scandal: Haiti court accuses officials of mismanaging \$2 bln in aid*, News Wires, (Aug. 18, 2020), <https://www.france24.com/en/20200817-petrocaribe-scandal-haiti-court-accuses-officials-of-mismanaging-2-bln-in-aid> (“Haiti’s High Court of Auditors released a report Monday slamming the fraudulent and often illegal management by various ministers and administrations of nearly \$2 billion in aid from Venezuela between 2008 and 2016. The more

According to the Organized Crime and Corruption Reporting Project (OCCRP),

“The court’s report added that the fund had been used to finance over 400 different development projects in Haiti. It said investigators had found shortcomings in virtually all ministries and institutions that were granted money as a result, and that this reflects the high level of corruption among public officials in the country. Among those implicated in the previous report is President Jovenel Moïse, who is accused of using a company formerly under his control to embezzle \$1 million in Petro Caribe funds, an allegation he firmly denied.”³⁴⁸

According to Barron's, in August 2020, “[t]he High Court of Auditors also condemned a lack of cooperation from institutions, which it said hindered its investigative work in two initial reports, published in January and May 2019.”³⁴⁹

The Barron’s report explains: “For instance, the judges were unable to trace a single contract to build an industrial park and 1,500 houses outside Port-au-Prince -- the most ambitious public urban development project since the 2010 earthquake. The project ended in 2014.”³⁵⁰

Agence France Presse reports: “despite recommendations from the High Court of Auditors and popular protests organized since 2018, no prosecution has been brought against the dozens of former ministers and high-ranking officials involved in the Petro Caribe scandal.”³⁵¹

In February 2019, the entire country went into a lockdown (“peyi lók”) as protests seized the country in response to the release of the first report -- a condition from which it did not recover until late 2019.³⁵² At the end of 2019, schools, government agencies, and courthouses reopened,

than 1,000-page-long report details projects undertaken without a needs assessment or even a cost estimate...”); Haiti High Court Accuses Officials Of Mishandling \$2 Bln Aid, Barron’s (Aug. 17, 2020), <https://www.barrons.com/news/haiti-high-court-accuses-officials-of-mishandling-2-bln-aid-01597700404> ; Gagné-Acoulon, <https://www.occrp.org/en/daily/12995-watchdog-haitian-gov-mishandled-development-scheme>.

³⁴⁸ OCCRP, <https://www.occrp.org/en/daily/12995-watchdog-haitian-gov-mishandled-development-scheme>.

³⁴⁹ Barrons,

<https://www.barrons.com/news/haiti-high-court-accuses-officials-of-mishandling-2-bln-aid-01597700404>

³⁵⁰ *Id.*

³⁵¹ *Id.*

³⁵² See e.g., Human Rights Watch, <https://www.hrw.org/world-report/2020/country-chapters/haiti> (“In February 2019, demonstrations escalated after the government declared a state of economic emergency, with opposition groups demanding President Jovenel Moïse’s resignation amid allegations that he had mismanaged government funds designated for social programs. In September, anti-government protests grew in size and police responded in several cases with excessive force.”). See also Merritt Kennedy, *Protestors Demand Resignation of Haitian President Over Corruption Allegation*, NPR: Latin America (June 11, 2019, 4:55 PM),

but a few months later, the country had to meet the challenges of the worldwide Covid-19 pandemic, which once again led to the closing of schools, courts, and government agencies. The Haitian legislature has failed to function since early 2020 and the further weakening of judicial institutions serves to consolidate power in the executive.³⁵³ The combined effect of this situation is “a blank check for injustice.”³⁵⁴ These political conditions in Haiti underscore the risk of worsening, extensive and irreparable harm to the Children Petitioners.

C. Pervasive Violence Threatens Environmental Protection

Violence in Haiti has become pervasive since 2019, with kidnappings and shootings so common that people are afraid to be outside. Increased political and gang violence have taken hold since then, with murders and assassinations occurring on a regular basis.³⁵⁵ There are frequent reports of people being raped, shot, defaced, defiled, decapitated, and burned.

Human rights attorney Patrice Florvilus describes the current situation as “alarming.”³⁵⁶

From a socio-political point of view, he says:

“it is characterized by an incomparable institutional vacuum, a stranglehold by the executive over all the structures of the judicial system, a persistent lack of consensus on a common political agenda, extreme polarization, growing insecurity engendered by gang activity, serious human rights violations, massacres committed in impoverished neighborhoods and, according to some sources, with the collaboration of state authorities, and several prominent murders, the most recent of which are those of a justice of the peace, a deputy government commissioner, the President of the Bar of Port-au-Prince, Me Monferrier Dorval and many other public figures. According to the online news agency

<https://www.npr.org/2019/06/11/731640235/protesters-demand-resignation-of-haitian-president-over-corruption-allegations>. See numerous news reports of the continuing and escalating protests including: Onz Chery, *As Haiti Burns, Government Adds Kindling Or Turns Blind Eye*, Haitian Times (Oct. 14 2020), <https://haitiantimes.com/2020/10/14/as-haiti-burns-government-adds-kindling-or-turns-blind-eye/>; Sandra Lemaire & Matiado Vilme *Haitian Protesters Clash with Police During Call for President to Resign* VOA News (Nov. 19, 2020)

<https://www.voanews.com/americas/haitian-protesters-clash-police-during-call-president-resign>. See also Onz Chery, *In Latest Decree, Moïse Rejects Judicial Oversight of His Government*, The Haitian Times (Nov. 9, 2020), <https://haitiantimes.com/2020/11/09/in-latest-decree-moise-rejects-judicial-oversight-of-his-government/>.

³⁵³ Venel Nelson, *Jovenel Moïse defends himself against his famous decree muzzling the CSC / CA*, Tripfoumi (Nov. 9, 2020), <https://www.tripfoumi.com/blog/2020/11/09/jovenel-moise-se-defend-contre-son-fameux-decret-muselang-la-csc-ca-2/>.

³⁵⁴ Florvilus, Exh. I, App. at 24.

³⁵⁵ *Id.*, 22-24.

³⁵⁶ *Id.*, 21.

Alterpresse from January to June 2020, 150 people were shot dead in Haiti.³⁵⁷ A climate of generalized terror reigns over Haiti: kidnapping, hostage-taking, and assassination happen daily. The population is left to itself, self-defense becomes the main alternative for each other. Some even dare to say that we have a hope of life of 24 hours, for the lucky ones. Every Haitian becomes a walking corpse.”³⁵⁸

The violence results from the utter failure of the government to protect its citizens. At a protest on December 10, 2020, Gédéon Jean, the Executive Director of the Centre d’analyse et de recherches en droits de l’homme (CARDH), said: “Together, let us say no to insecurity, no to kidnapping, no to massacres. Let us cry for justice for the victims. We have marched for life, to denounce insecurity, which spares no one. We are thinking of all the victims of assassination, of kidnapping, of rape. We must continue to mobilize to compel the authorities to take responsibility.”³⁵⁹ Attorney Florvilus quotes Monferrier Dorval, the leader of the Port-au-Prince Bar Association who was assassinated in August 2020: “Le pays n’est ni gouverné, ni dirigé.” (“The country is neither governed, nor led”).³⁶⁰

³⁵⁷ *Retour de l’insécurité en Haïti*, La Presse (Mar 16, 2012). <https://www.lapresse.ca/international/amerique-latine/201203/16/01-4506412-reto-ur-de-linsecurite-en-haiti.php>.

³⁵⁸ Florvilus, Exh. I, App. at 21: « La situation actuelle en Haïti est alarmante. Elle caractérise du point de vue socio-politique par une vide institutionnelle sans commune mesure, une mainmise de l’exécutif sur l’ensemble des structures de l’appareil judiciaire, une absence persistante de consensus sur un programme politique commun, une polarisation extrême, l’insécurité croissante engendrée par l’activité des gangs, de graves violations de droits humains, des massacres commis dans les quartiers appauvris et, selon certaines sources, avec la collaboration d’autorités étatiques, et plusieurs meurtres spectaculaire dont les plus récents sont ceux d’un juge de paix, d’un substitut commissaire du gouvernement, du Bâtonnier de l’ordre des avocats de Port-au-Prince, Me Monferrier Dorval et bien d’autres personnalités publiques. Selon l’agence d’information en ligne Alterpresse de janvier à juin 2020 150 personnes sont tuées par balle en Haïti. <https://www.lapresse.ca/international/amerique-latine/201203/16/01-4506412-retour-de-linsecurite-en-haiti.php>. Un climat de terreur généralisée règne sur Haïti : kidnapping, séquestrations et assassinat se répètent quotidiennement. La population est livrée à elle-même, l’auto-défense devient la principale alternative des uns et des autres. Certains osent même parler de 24 heures l’Espérance de vie en Haïti pour les plus chanceux. Chaque haïtien/haïtienne devient un cadavre ambulante. » (Translation by Legal Representatives.)

³⁵⁹ Jean Daniel Sénat, *La société civile manifeste sa colère contre l’insécurité*, Le Nouvelliste (Dec. 10, 2020), <https://lenouvelliste.com/article/224127/la-societe-civile-manifeste-sa-colere-contre-linsecurite> (quoting Gedeon Jean “Ensemble disons non à l’insécurité, non au kidnapping, non aux massacres. Crions justice pour les victimes. On a marché pour la vie, pour dénoncer l’insécurité qui n’épargne personne. Nous pensons à toutes les victimes d’assassinat, de kidnapping et de viol. Nous devons continuer à nous mobiliser pour contraindre les autorités à assumer leurs responsabilités”,

³⁶⁰ Florvilus, Exh. I, App. at 21.

These conditions present a serious and urgent situation of crisis deepening daily, causing irreparable harm to children, contributing to what Judges A.A. Cançado Trindade and A. Abreu-Burelli called the “spiritual death” of children from which they will never recover.³⁶¹

³⁶¹ Street Children, Merits, Separate Opinion of Judges Cançado Trindade and Abreu Burelli, Inter-Am. Ct. H.R. (ser. C) No. 63, ¶ 7 (Nov. 19, 1999), para. 9.

VI. REQUEST FOR RELIEF

Petitioners have demonstrated that the Government of Haiti has violated their rights as children to dignity, a healthy environment, and judicial protection by its actions that brought trash into Cite Soleil without any plan for its removal or sanitary disposal, by its acquiescence in allowing trash from other neighborhoods to flow into Cité Soleil year after year, and by its utter failure to drain the canals, or to protect children from the toxic fumes, contaminated water, and unsanitary trash dumps that form the landscape of their lives and from which they can get no respite. Neglected and abandoned by the national government, Children Petitioners suffer from preventable and treatable diseases that recur, and threaten their health, their lives, and their dignity. These children are especially vulnerable to irreparable harm given their poverty and their youth: their developing minds and bodies make them even more at risk for both short-term and long-term medical and psychological problems caused by prolonged exposure to these conditions. The Commission should intervene to ensure that the children of Cité Soleil are treated as human beings of equal worth and deserving of dignity, and grant the following relief:

The Commission should intervene to ensure that the children of Cité Soleil are treated as human beings of equal worth and deserving of dignity, and accordingly:

1. Declare this Petition admissible;
2. Declare Haiti in violation of the American Convention on Human Rights;
3. Issue the following Precautionary Measures:
 - a. Immediately refrain from bringing more waste into Cité Soleil.
 - b. Immediately guarantee conditions of waste management that are compatible with international standards.
 - c. Immediately adopt pertinent measures to offer a specialized medical diagnosis for the beneficiaries, and provide them with adequate medical care, taking into account the

- alleged contamination, and provide adequate medical attention in conditions of availability, accessibility and quality, pursuant to applicable international standards.
- d. Adopt the measures in question in consultation with the beneficiaries and their representatives.
 - e. Report on the actions taken to allow the investigation of the conditions that led to the situation described in the Petition with the aim of ameliorating them and preventing their recurrence; and
 - f. Take appropriate steps necessary to guarantee that the Petitioners are protected from threats, harassment, or acts of violence while pursuing their interests in this Petition as environmental and human rights defenders.
4. Visit with the Petitioners and community victims in Cité Soleil;
 5. Hold a hearing during a public session about this Petition;
 6. Recommend that Haiti:
 - a. Halt violations of the Convention;
 - b. Investigate the environmental conditions of Cité Soleil specifically as related to the canals and trash dump sites;
 - c. Adopt and implement preventative measures that, at a minimum:
 - i. Relocate the city's trash dump out of Cité Soleil to a place separate from human habitation;
 - ii. Require all commercial and residential disposal of trash in Cité Soleil cease until it comports with appropriate international standards;
 - iii. Provide access to effective medical services, including but not limited to hospitals, health centers, and dispensaries, for the children of Cité Soleil;
 - d. Install a functioning wastewater treatment system;

- e. Make reparation for the harm caused;
- f. Institute legal reform, and/or;
- g. Require the adoption of other measures or actions by Haiti, and,

7. Provide any other relief the Commission considers proper.

Respectfully submitted,



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Legal Representatives

Dated: February 4, 2021

APPENDIX: EXHIBITS

PETITION AND REQUEST FOR PRECAUTIONARY MEASURES

TO THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

SIX CHILDREN OF CITÉ SOLEIL, HAITI

And

SAKALA COMMUNITY CENTER FOR PEACEFUL ALTERNATIVES

PETITIONERS

**CONCERNING VIOLATIONS OF THE AMERICAN CONVENTION ON HUMAN
RIGHTS**

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February 4, 2021

Exhibit A: Statement of Petitioner E.D, Age 16

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: Thank you so much for speaking with us today. What is your name?

E.D.: My name is [E.D]

Nancy: And how old are you?

E.D.: I am 16.

Nancy: How old were you when you first started coming to SAKALA?

E.D.: I was 14.

Nancy: Do you go to school?

E.D.: Yes.

Nancy: Where do you go to school?

E.D.: I go to school in Sarthe.

Nancy: Is Sarthe in Cité Soleil?

E.D.: Yes.

Nancy: Do you live in Cité Soleil?

E.D.: Yes.

Nancy: When you are walking around in Cité Soleil, going to school and to SAKALA, do you notice a lot of trash in the streets?

E.D.: Yes. I have seen a lot of trash.

Nancy: Is the trash a problem?

E.D.: Yes.

Nancy: Why?

E.D.: It is a problem for us because of the smell. The bad smell is not good for us.

Nancy: What happens with the trash when it rains?

E.D.: So when it's raining the water can just spring in and also the water can go in to houses and stay.

Nancy: Have you also noticed trash burning in Cité Soleil?

E.D.: Yes.

Nancy: And is the burning trash a problem?

E.D.: Yes, for me it is a problem.

Nancy: Why?

E.D.: It makes me sick, I can't breathe well with the smell.

Nancy: And would you like to say anything else about the trash situation in Cité Soleil?

E.D.: What I can say is that the people of Cité Soleil can work together and find where this trash is and move it to somewhere else.

Nancy: Now we will talk a little bit about SAKALA. Do you like SAKALA?

E.D.: Yes, a lot.

Nancy: What do you like to do at SAKALA?

E.D.: I like the soccer. I like the education that SAKALA is giving us. I go to the library.

Nancy: I am so sorry for all the mosquitos (marenguen) so we will be quick. Is there anything else you would like to say about SAKALA?

E.D.: What I like about SAKALA is that SAKALA guides us, takes our hands and walks with us and helps us in everything that we do.

Nancy: OK, mèsi anpil. Thank you so much.

Exhibit B: Statement of Petitioner G.S., Age 17

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: Thank you so much for speaking with us today.

G.S. Thank you too.

Nancy: What is your name?

G.S.: My name is [G.S]

Nancy: How old are you?

G.S.: I am 17.

Nancy: How old were you when you first started coming to SAKALA?

G.S.: I was 15.

Nancy: And do you go to school?

G.S.: Yes.

Nancy: Where do you go to school?

G.S.: My school is in Bwa Nef, the name of the school is St. Francis.

Nancy: And Bwa Nef is in Cité Soleil?

G.S.: Yes.

Nancy: Do you live in Cité Soleil as well?

G.S.: Yes.

Nancy: Where do you live?

G.S.: I live at Rue Sanon.

Nancy: When you come to SAKALA from your home and school, do you see a lot of trash in the streets?

G.S.: Yes, because the way to go from my home to SAKALA, there is a lot of trash. When the rain comes it brings a lot of trash, a lot of water in the streets.

Nancy: And how do you deal with that situation?

G.S.: To deal with that is that if I am trying to cross I search for some blocks and I just cross on the blocks to make it easier for me.

Nancy: Do you also ever see trash burning in Cité Soleil?

G.S.: Yes.

Nancy: Is that a problem?

G.S.: Yes. It is a problem for me because I am the captain of what we call Earth Fridays here (an environmental group at SAKALA). So I am fighting against everything that is bad for the environment. So yes it is a problem for me.

Nancy: Does the smoke ever make it hard for you to breathe or feel sick?

G.S.: Sometimes yes. Because the water brings a lot of mud, so when the water dries there is a lot of dirt and trash. So they put it in a pile and set fire to it and the smoke [makes me ill].”

Nancy: Is there anything else you would like to say about the trash situation in Cité Soleil?

G.S.: So what I would say is that we should gather together to find the solution because one person alone can't find the solution. We should put ourselves together to find the solution to these problems.

Nancy: So now we're going to talk about SAKALA. Do you like SAKALA?

G.S.: Yes, I like SAKALA.

Nancy: And what do you like about SAKALA?

G.S.: So when I first came to SAKALA I liked all the things that had to do with the garden. Because my dream is to become an agronomist.

Nancy: And what else do you like to do at SAKALA?

G.S.: I like playing chess. I practice a lot. I take all the opportunities that SAKALA offers so that we can grow.

Nancy: Is there anything else you would like to say about SAKALA?

G.S.: No.

Nancy: Thank you so much for talking with us.

G.S.: Thank you to you too.

Exhibit C: Statement of Petitioner M.Ca., Age 15

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: OK, thank you so much for agreeing to speak with us today.

What is your name?

M.Ca.: My name is [M.Ca.]

Nancy: And how old are you?

M.Ca.: I am 15 years old.

Nancy: How old were you when you first started coming to SAKALA?

M.Ca.: I was 10 years old.

Nancy: Do you go to school?

M.Ca.: Yes.

Nancy: Where do you go to school?

M.Ca.: I go to Saint Leonel School. It is in Delmas 41.

Nancy: OK, and do you live in Cité Soleil?

M.Ca.: Right now I am not living in Cité Soleil, but I was living in Cité Soleil –

Nancy: Up until, was it eight months ago?

M.Ca.: Eight months.

Nancy: Can you describe, so when you used to live in Cité Soleil, can you describe if you saw a lot of trash in the streets?

M.Ca.: When I was living in Cité Soleil, when it was raining so there was a lot of water and so when I came to SAKALA I had to put my feet in the water, in the mud, in the trash.

Nancy: How did you deal with that, with the rain?

M.Ca.: Sometimes I used to be afraid and I stayed at home from school. Sometimes I would say I should go out and I went out.

Nancy: What were you afraid of?

M.Ca.: I am afraid of the water.

Nancy: What about the water scared you?

M.Ca.: I'm afraid of the water because it is dirty water. It is full of mud and trash. So I don't know what is in the water, so that's why I am afraid of it.

Nancy: How about, um, have you ever seen trash burning in Cité Soleil?

M.Ca.: Yes, especially where I was living.

Nancy: Before?

M.Ca.: Yes.

Nancy: And what was your experience when the trash was burning?+

M.Ca.: I don't feel good because it is not a good smell. Sometimes I just go home so I could avoid smelling this bad smell.

Nancy: Did the smoke ever make it hard to breathe?

M.Ca.: Yes. It makes it very difficult to breathe. Sometimes it goes in my eyes and it goes in my nose. It makes my eyes water.

Nancy: Is there anything else you would like to say about the trash situation in Cité Soleil?

M.Ca.: The message that I would send is to find a special – like maybe we can find a sponsor to deal with the issue of trash in the country. So when it is raining, after it rains, we can have a group of people so the mayor would do exactly what he should do to clean the roads and to take all the trash we have after the rain.

Nancy: OK. And so now I am going to ask you about SAKALA. Do you like SAKALA?

M.Ca.: Yes, I love SAKALA a lot.

Nancy: What do you like about SAKALA?

M.Ca.: I like the way that SAKALA works with the kids. SAKALA helps to pay for the school for the kids. And when the parents don't have anything for their kids to do at home they send them to SAKALA and SAKALA helps the kids to do a lot of things.

Nancy: And what are your favorite things to do at SAKALA?

M.Ca.: I like playing chess. And I like to come here for the recycling program. I like to water the plants in the tires (in Jaden Tap Tap, the community garden at SAKALA where tires are used as planters).

Nancy: Is there anything else you would like to say about SAKALA?

M.Ca.: What I would like to say about SAKALA is to say thank you to SAKALA.

Nancy: OK, thank you so much.

Exhibit D: Statement of Petitioner M.Ch., Age 11

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: Thank you so much for talking to us today. What is your name?

M.Ch.: My name is [M.Ch.]

Nancy: And how old are you?

M.Ch.: I am eleven years old.

Nancy: And how long have you been coming to SAKALA?

M.Ch.: Eight months.

Nancy: Do you go to school?

M.Ch.: Yes.

Nancy: Where do you go to school?

M.Ch.: It's in Project Doulya, it's St. Jean de Bosco.

Nancy: So not too far from Cité Soleil? Is it in Cité Soleil?

M.Ch.: Yes.

Nancy: And do you live in Cité Soleil?

M.Ch.: Yes.

Nancy: When you are walking around Cité Soleil have you noticed a lot of trash in the street?

M.Ch.: Yes, I see trash, I see dirty water.

Nancy: And how do you deal with that situation?

M.Ch.: Sometimes I take blocks [to step on to walk across the canal].

Nancy: Have you also seen trash burning in Cité Soleil?

M.Ch.: Yes.

Nancy: Does this cause any problems?

M.Ch.: When they are burning the trash it gives me a headache and it makes my eyes water.

Nancy: Is there anything else you would like to say about the trash situation in Cité Soleil?

M.Ch.: I would like the people who throw trash in the street to stop and for the mayors to do their job and to stop throwing trash into the canals.

Nancy: Now we will talk about SAKALA a little bit. Do you like SAKALA?

M.Ch.: Yes.

Nancy: What do you like about SAKALA?

M.Ch.: So what I like at SAKALA is when they do the Earth Fridays. I participate in that.

Nancy: Is there anything else you like to do at SAKALA?

M.Ch.: I like how SAKALA teaches the kids, trains the kids, and to let them know how they're doing.

Nancy: And is there anything else you would like to say?

M.Ch.: No.

Nancy: Thank you so much. Mèsi anpil.

Exhibit E: Statement of Petitioner N.I., Age 15

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: Thank you so much for speaking with us today.

NI: Thanks to you too.

Nancy: What is your name?

N.I.: My name is [N.I.]

Nancy: How old are you?

N.I.: 15.

Nancy: How long have you been coming to SAKALA?

N.I.: Since I was 14 years old.

Nancy: Do you go to school?

N.I.: Yes.

Nancy: Where do you go to school?

N.I.: In Tabarre.

Nancy: And that is outside of Cité Soleil?

N.I.: Yes.

Nancy: Do you live in Cité Soleil?

N.I.: Yes.

Nancy: And when you are walking around Cité Soleil, have you noticed a lot of trash?

N.I.: A lot, a lot. (Anpil, anpil.)

Nancy: Does it cause problems for you?

N.I.: Yes, a lot of problems.

Nancy: What happens with all the trash when it rains?

N.I.: When it rains, the trash goes into the canals and stuff the canals and then goes out and into the houses.

Nancy: And is that—has it ever gone into your house?

N.I.: No.

Nancy: Because you live farther away?

N.I.: No, because my house is up higher.

Nancy: Have you ever noticed trash burning in Cité Soleil?

N.I.: Almost every day.

Nancy: Does the burning of the trash cause any problems?

N.I.: Yes, it is a problem for the air that we breathe. And also it is a problem for me because it gives me a headache and I can't escape/avoid the problem.

Nancy: Is there anything else you would like to say about the trash situation in Cité Soleil?

N.I.: Yes. Before they were saying, "we can still save the kids, the little ones." But now we can't save them because everywhere they were living they do not have a place to live because the water takes all of the place.

Nancy: Now we will talk a little bit about SAKALA. Do you like SAKALA?

N.I.: Yes, I like SAKALA.

Nancy: What do you like about SAKALA?

N.I.: I like SAKALA because it makes change for the kids completely, the way we live.

Nancy: What do you like to do at SAKALA? What is your favorite thing?

N.I.: I like playing chess, I like playing (volleyball?), and I like playing checkers. And I learned how to play chess here.

Nancy: So you learned how to play chess at SAKALA?

N.I.: Yes.

Nancy: Is there anything else you would like to say about SAKALA?

N.I.: Yes. SAKALA is doing a great job with education, sports, and with the environment. I like SAKALA because it puts us on our way so we can help others, we can work with others to make things happen.

Nancy: OK, mèsi anpil. Thanks very much.

Exhibit F: Statement of Petitioner P.J., Age 16

(Interview recorded, conducted, translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA, November 18, 2020. Identity of interviewee available upon request by IACHR.)

Nancy: Thank you so much for speaking with us today.

PJ: Thank you too.

Nancy: What is your name?

PJ: My name is [P.J.]

Nancy: How old are you?

PJ: 16.

Nancy: How long have you been coming to SAKALA?

PJ: Since 2017.

Nancy: Do you go to school?

PJ: Yes.

Nancy: Where do you go to school?

PJ: Porto Rico in Boston. (neighborhood in Cité Soleil)

Nancy: Is that in Cité Soleil?

PJ: Yes.

Nancy: Do you live in Cité Soleil?

PJ: Yes.

Nancy: When you are walking around Cité Soleil, coming to SAKALA or going to school, do you see a lot of trash in the streets?

PJ: Yes.

Nancy: And is that a problem?

PJ: Yes, it is a problem.

Nancy: Why is it a problem?

PJ: Because people can't walk on trash.

Nancy: When it rains what happens with the trash?

PJ: When it rains trash gets inside of the houses.

Nancy: How do you deal with that situation?

PJ: When water gets into my house I find a way to put the water out. We have to repeat that many times so if after many tries we see the water won't stay out we just leave it until it dries by itself.

Nancy: You just wait for it to dry. OK. Have you noticed any burning of trash?

P.J.: Yes.

Nancy: And does the burning of the trash cause any problems for you?

P.J.: Yes, because I can smell the smoke.

Nancy: Is there anything else you would like to say about the trash situation?

P.J.: I would like Cité Soleil to find help so we can clean our area and everywhere can be clean.

Nancy: Now we will talk a little bit about SAKALA. Do you like SAKALA?

P.J.: A lot.

Nancy: What do you like about SAKALA?

P.J.: I like everything about SAKALA.

Nancy: What are your favorite things to do at SAKALA?

P.J.: What I like the most is soccer. (Nancy's note: P.J. is an outstanding soccer player.)

Nancy: Is there anything else you would like to say about SAKALA?

P.J.: Yes. I am very happy I am part of SAKALA because there are some things I didn't know before and when I came to SAKALA I learned.

Exhibit G: Expert Report of Dr. Nadège Bélizaire

[Note: My Expert Report adopts the opinions on the conditions and health issues in Cité Soleil; provided by Dr. Kobel Dubique, MD, MMSc-GHD, in his separate Expert Report. We have known each other since we both attended medical school, and have worked as partners to provide medical services to the Haitian poor throughout our professional careers. We live in Port-au-Prince and have two children.]

BACKGROUND

Name and Address

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Professional Background

Educational Qualifications

MMSc-GHD, (Masters of Medical Sciences in Global Health Delivery), Harvard University, Cambridge Massachusetts, 2013-2015
Community Health Program at Escuela Latino-Americana de Medicina, 2008- 2010
M.D., Escuela Latino-Americana de Medicina, Santiago, Cuba, 2001-2008

Professional Experience

I have worked since 2018 as a physician and Medical Director at Haiti Clinic, Inc., a U.S. 501(c)(3) non-profit organization dedicated to improving healthcare and health education in Haiti. <https://haiticlinic.org/>. With my spouse, Kobel Dubique, MD, MMSc-GHD, and Country Director of Haiti Clinic, I provide women's health, maternal and well-baby health, childrens' health, dental and general services to children and adults, including pregnant women, to Cité Soleil and rural communities. As Medical Director, my tasks are to supervise Haiti Clinic health center staff, and ensure that system is place to provide a good quality of care to the people of Cité Soleil. In 2018, Haiti Clinic designed and implemented a woman's and children health program for health education and healthcare support through community health workers in Cité Soleil that launched in 2018. We also provide free testing to patients for HIV and syphilis. In addition, periodically we have launched mass education campaigns on Sexually Transmitted Infections, Cholera, Corona Virus, etc.

In addition to my work through Haiti Clinic, in 2019 I worked on a research project funded by USAID and the Haitian Ministry of Health on the Classification and Quantification of Unusable Pharmaceutical Products (UPPs) that surveys the inventory of unusable pharmaceutical products in approximately 200 health care facilities throughout Haiti. In 2012 and 2013, I worked as an HIV

specialist in Cité Soleil. Following the Haiti earthquake in January 2010, in which hundreds of thousands of Haitians died or were displaced, I served as an assistant medical site coordinator for Partners in Health/Zanmi Lasante (“PIH”). While at Harvard University, where I received my Masters in Medical Science in Global Health Delivery, I investigated the experiences of women seeking care for breast cancer in Haiti.

Familiarity with Cité Soleil and the SAKALA Community Center

Cité Soleil

For over 10 years, I have provided healthcare services and researched medical conditions in Cité Soleil. Cité Soleil is located in the Port-au-Prince metropolitan area in Haiti at the western end of the runway of Toussaint Louverture International Airport and near the ocean. Cité Soleil is an extremely impoverished and densely populated community of an estimated 300,000 to over 500,000 residents, the overwhelming majority of whom live on less than \$1 (USD) per day and cannot afford to eat everyday. Cité Soleil is the largest and most dangerous slum in Haiti, literally known as a Red Zone due to level of insecurity. The government provides barely any services in Cité Soleil and there is no sanitation program, which affects the health of the residents. Trash is never collected and removed from the streets and canals by the government, and the residents are not educated on the disposal of trash. There are also water contamination issues caused by the frequent flooding. For instance, when it rains, the rainwater generally floods the houses and the streets, causing disease. There is also widespread malnutrition and respiratory illnesses such as acute asthma, caused by burning of the waste and nearby industries. I treat other conditions like diarrhea, malaria, typhoid worms, and dengue fever. There are virtually no medical clinics or other healthcare providers except through non-profit organizations like Haiti Clinic, and child mortality is very high.

With Dr. Dubique, I visited the SAKALA Community Center on Monday, October 26, 2020, to examine the medical conditions of the children caused by the environmental conditions and living in Cité Soleil generally. I saw the trash and waste in the canals and the streets that surrounds SAKALA. Despite the deplorable living conditions in Cité Soleil, Sakala provides a place for children to play, eat one meal, do their homework, learn skills and to understand that they are children like any others and should be valued.

Based on your experience and knowledge:

What are some of the medical ramifications to prolonged, continuous exposure to waste/trash in a community with no formal trash removal system?

Waste pollutes the environment, and when it is burned, it produces large-scale risks to the people that live and spend time near these burning sites. It produces other health risks when water collects around the trash, which includes human waste. Child mortality and illness is very high in a place like Cité Soleil. For children under five, the first cause is respiratory diseases, and second is diarrhea. When trash, including plastic, rubber from the tires, is burned, the respiratory system is affected, causing conditions like asthma bronchitis, asthma, (which is an inflammatory respiratory disease caused by allergies). The collection of water in the trash and the buildings when it rains and touches the body can lead to skin diseases like scabies and tiña capitis, or worsen existing infections like vaginal infections, and STIs. The water may be used for cooking and lead to

diarrhea. The water also breeds mosquitoes that bite the individual, and cause that cause malaria and dengue fever, and others. Most of the children in Cité Soleil do not eat every day and many have malnutrition, so their bodies are not strong enough to fight off illness. Some of the diseases are treatable, such as scabies, but others like diarrhea can lead to death. The children that live within these conditions often have mental health issues due to the dangerous and unhealthy conditions.

How does inhalation from burning trash/plastic affect the body? Does one have to be physically close to smoke from burning trash/plastic in order to be harmed by it?

The dioxins, the tetrachlorodibenzo-p-dioxin and the carbon dioxide that are inhaled from the burning trash are lethal. Commonly known as Agent Orange, these chemicals provide a toxic compound for the organism that cause cancer and neurological, thyroid function and respiratory system damage. Thus, the burning of plastic wastes increases the risk of heart disease, aggravates respiratory ailments such as asthma and emphysema, and can cause rashes, nausea or headaches, and damage to the nervous system.

A person does not need to be physically close to the smoke from burning trash/plastic in order to be harmed by it. Toxicological studies on dioxin showed the potential health risks within 26 feet of the source of waste burning source from just 15 minutes of burning. It is recommended to burn trash, if at all, at least 50 ft from houses and individuals, yet this does not occur in Cité Soleil.

What are the most cost-effective remedies to cure infectious diseases commonly spread through unsanitary living conditions?

The most-effective remedies to cure infectious diseases commonly spread through unsanitary living conditions is firstly, to remove plastic products, and secondly, to educate the population how to keep their environment clean and healthy. Finally, the government should take responsibility to have a sanitation system available for the people to put their waste and have them schedule a time to pick them up. If the government does not provide a sanitation system, the population can learn to transform waste into usable products and recycle them, and to cultivate a sense of voluntarism.

What are effective ways to stay sanitary in conditions where there is no running water?

As a child, my mother used to fill up buckets and other containers with raining water to use because we lived far from running water. Using water tanks to save raining water is other option. In reality, many Haitians dig holes to find water.

What would be the general annual cost of providing access to general medical treatment to an individual within an impoverished community of Port-au-Prince?

In a community like Cité Soleil children and adults go to see doctor more often than the general population due to their living conditions. The annual cost of providing access to general medical treatment to an individual living in Cité Soleil varies depending of their medical conditions, and whether hospitalization needed or not. We estimate that \$100-300 US annually is necessary a general medical treatment that does require hospitalization.

What are the general added medical costs for an individual who is suffering from the common illnesses associated with prolonged exposure to waste and inhalation of burning trash debris?

Long time exposure to waste inhalation of burning trash debris can provoke mild to severe symptoms or illness. As some of the Cité Soleil citizen lack access to medical care, they often tried home-based remedies before seeking medical care. Also, informal medical facilities are widely spread which make Cité Soleil citizens delayed good quality care. And, sometimes, for severe symptoms or late stage diseases that are treatable and preventable patients who are treated at Haiti Clinic must be referred to other well-qualified facilities for their specific problem. Therefore, the cost for an individual who is suffering from the common illness associated with prolonged exposure to inhalation of burning trash varies on the medical conditions and the facility that he would be referred to. The care is often not free, and patients must pay.

What preliminary steps must be taken to ensure that conditions are suitable for allowing larger methods of medical relief to come in and work within the area?

There should be a national awareness campaign on the disposal of trash. The trash comes from all over Haiti, not just Cité Soleil. For instance, the trash that collects in the canals in Cité Soleil is conveyed by the rains from the higher areas near Kenscoff, Laboule, Petion-Ville, etc., to Cité Soleil, which is located at a lower level near the sea. It is a national problem.

In your expert opinion, are the significant cases of infectious diseases, long- term respiratory conditions (such as asthma, lung cancer, etc.), and general high mortality rate for those living in Cité Soleil directly caused by massive accumulation of waste and the improper/unmonitored methods of its removal through general trash fires?

Yes.

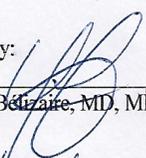
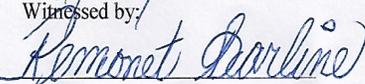
Signed by: 
Nadège Bégin, MD, MMSc-GHD
Date: 11/22/2020
Witnessed by: 

Exhibit H: Expert Report of Dr. Kobel Dubique

[Note: My Expert Declaration also adopts the opinions on the conditions and health issues in Cité Soleil provided by Dr. Nadege Belizaire, MD, MMSc-GHD, in her separate Expert Report. We have known each other since we both attended medical school, and have worked as partners to provide medical services to the Haitian poor throughout our professional careers. We live in Port-au-Prince and have two children.]

BACKGROUND

Name and Address

Kobel Dubique, MD, MMSc-GHD
8, Rue Flamant, Delmas 3
Email: kobel_dubique@post.harvard.edu tikob2dubique@yahoo.fr

Educational Qualifications

MMSc-GHD (Masters of Medical Sciences in Global Health Delivery), Harvard University, Cambridge Massachusetts, 2013-2015

Community Health Program at Escuela Latino-Americana de Medicina, Santiago Cuba, 2008-2010

M.D., Escuela Latino-Americana de Medicina, Santiago, Cuba, 2001-2008 Professor, Université de la Fondation Dr. Aristide

Professional Experience

I have worked since 2018 as a physician and Medical Director at Haiti Clinic, Inc., a U.S. 501(c)(3) non-profit organization dedicated to improving healthcare and health education in Haiti. <https://haiticlinic.org/>. With my spouse, Nadège Bélizaire, MD, MMSc-GHD, who is the medical director in Cité Soleil and myself as the new country director of Haiti Clinic, we provide women's health, maternal and well-baby health, childrens' health, dental and general services to children and adults, including pregnant women, to Cité Soleil and rural communities. As Country Director, my tasks are to recruit Haiti Clinic health center staff, and to coordinate local clinic trips and mobile clinic trips in remote areas in Haiti. In 2018, Haiti Clinic designed, implemented, and launched a woman's and children health program for health education and healthcare support through community health workers in Cité Soleil. We also provide free testing to patients for HIV and syphilis. In addition, periodically we have launched mass education campaigns on Sexually Transmitted Infections, Cholera, Corona Virus, etc.

Prior to my work with Haiti Clinic, in 2013 with Dr. Bélizaire I launched a community-based organization, "Aksyon Sosyal Entegre pou Devlopman Kominote (ASEDK)" in Cité Soleil to provide medical and social support services for local residents, such as assistance with burials. Following the Haiti earthquake in January 2010, I served as a medical site coordinator for Partners in Health/Zanmi Lasante ("PIH/ZL") in the displaced camps, where I implemented a model of care known as "accompaniment," which means empowering the residents in the Internally Displaced Persons (IDPs) camps through humanitarian aid to change their living conditions until they were

relocated. My thesis for the Master's degree in Medical Sciences of Global Health Delivery and Social Medicine MMSc-GHD at Harvard Medical School has explored the humanitarian aid after the 2010 Haiti earthquake: the case of accompaniment to promote better collaboration and partnership between the government, the citizens of Cité Soleil, the NGOs, and the agencies. See Dubique, Kobel, "Humanitarian Aid After the 2010 Haitian Earthquake; The Case of Accompaniment", 2014.

Familiarity with Cité Soleil and the SAKALA Community Center

Cité Soleil

I was born in Cité Soleil and lived there until I went to medical school. I have been recognized as a respected community leader and activist. With my wife Dr. Nadège Bélizaire MD, MMSc-GHD, I have provided medical services in Cité Soleil since I returned to Haiti after medical school in Cuba (The Latin American School of Medicine, ELAM). Cité Soleil is the largest and most populated slum in Port-au-Prince. This city has been created to host the poor people who immigrated to Port-au-Prince to work at the factories to produce sandals, t-shirts, jeans, baseball balls, and other types of manufacturing items, materials, and clothes to sell in Haiti and other countries. Those people are now underpaid for their work and live in inhuman conditions and have only limited access to basic services for themselves, their families, and their kids (health, education, safe home, food, sanitation, safe water drinking). Their living environment is affected by trash, gang violence, and poverty putting everyone at risk of disease, gender based violence, and premature death.

SAKALA Community Center

I am familiar with SAKALA, in Kreyol Sant Kominotè Alternativ pou Lapè. SAKALA, and in English, the Alternative Community Center for Peace, which is located nearby the big water cistern in Cité Soleil on National Road Number 1, whose mission is to create a safe environment for the kids to grow and progress. They are involved in many activities such agriculture, physical sport, games, education, and leadership. This initiative has been created by community leaders like Daniel Tiliás to promote peace among the 34 neighborhoods of Cité Soleil through the sense of living and sharing together. I visited SAKALA with Dr. Bélizaire on Monday, October 26, 2020 where I have witnessed that this community center was surrounding of trash and this situation could affect the kids and their mentors.

Based on your experience and knowledge:

What are some of the medical ramifications to prolonged, continuous exposure to waste/trash in a community with no formal trash removal system?

We have to understand first the context of Cité Soleil and its location with respect to wealthy neighborhoods. The richest areas are located above Port-au-Prince, while Cité Soleil is located in downtown Port-au-Prince near the sea. Cité Soleil is linked to these wealthy neighborhoods by the canals more than the roads. The section of a canal in a wealthy neighborhood is large, paved, and well-built, while the same canal in Cité Soleil is small and not paved, with contaminated water. As a result, the waste, trash, and water that flow from the wealthy neighborhoods down to Cité Soleil produce in Cité Soleil a mixed salad of trash that includes human waste, medical waste, industrial waste such as plastic bottles, plastic plates, syringes, and more. Every day the minimal quantity of

trash produced in Port-Au-Prince is estimated approximately to 6,000 m³ while only 30 % is collected by the Haitian solid trash office (SGNRS) because of lack of removal means. Major part of this 30 % will be deposited to Truitier in Cité Soleil (the biggest discharge site of 250 hectares) and the rest will take the routes of canals and the capital roads to end up again in Cité Soleil. In conclusion, trash takes formal and informal routes to arrive to Cité Soleil.

With no formal system to remove the trash, people from Cité Soleil are more likely to die from diseases and floods than from hunger and gang violence. When the canals are full of trash during raining seasons the trash and dirty waters inundate the communities and the households, causing malaria, typhoid, cholera, acute diarrhea, worms, and skin diseases.

To remove or destroy the trash, the residents burn it, which can exacerbate asthma, causing acute asthma episodes, and produce acute distress respiratory issues and death mostly in children who live in houses where there is no space and enough rooms to bring in fresh air.

How does inhalation from burning trash/plastic affect the body? Does one have to be physically close to the smoke from burning trash/plastic in order to be harmed by it?

Inhalation from burning trash /plastic in Cité Soleil is affecting not only the health of the people but also affects them socially. When people in Cité Soleil respire the burning trash, it makes them more likely to develop asthma. This has directly exacerbated the growing deadly asthma crisis in Haiti.

Socially, people become less productive when they are sick, but also become stigmatized by the community when their clothes and body smell constantly smell like the burning chemicals, not only from the burning trash but also from the factories that produce hazardous chemicals that send outside smoke.

You don't need to be directly next to burning trash and plastic to be affected because the smoke invades the environment and all in Cité Soleil are adversely affected. In Haiti, much of the trash includes plastic bottles and otherwise recyclable plastic material. When we burn this plastic trash close to the community, it puts the residents at heightened risk to develop several different types of cancer.

We need to understand how the social determinants of health gets into and affects the body, particularly the poor, which is what the co-founder of PIH, Paul Farmer, calls "embodiment". The growing trash problem affects the residents of Cité Soleil in all aspects of their life: physically, mentally, and socially. One example of how the smoke pollution affects the residents' physical can be seen in how a pregnant woman who inhales smoke can affect the neural tube. This is especially detrimental to the embryonic development of the child because the neural tube is responsible for brain development and toxic pollution from burning trash can produce congenital malformation.

Another example that speaks to the social impact of the trash problem is seen whenever a child is stricken with malaria, typhoid or scabies. Whenever this happens to a child, they cannot play with their friends or go to school, so they are forced to stay home and are deprived of interaction with other children. Socially, when you live in these neighborhoods that are infected with disease from the growing trash problem, it is difficult to show your friends your home and bring them to visit you. Your clothes are often dirty and smell of meat, fish or smoke because it is impossible to live in Cité Soleil with trash and dirty water that inundate your house and your community and manage to stay hygienic. Sincerely, it is not easy to cohabit with trash in Cité Soleil.

What are the most cost-effective remedies to cure infectious diseases commonly spread through unsanitary living conditions?

The most important thing is prevention. Prevention is more cost effective than continuously having to treat and cure for the same issues. It is important to educate the population and also to provide them with the necessary resources needed to properly remove growing trash from their homes and move it to a central place for the State Trash Office to take it away from the neighborhood. The most important thing is to provide the people with the simple methods needed to make it as easy as possible for the State Trash Office to remove the overall buildup from the community and away from the people.

What are the most effective methods for staying sanitary among deplorable impoverished conditions?

This is best achieved through advocacy, community engagement and participation when community members and leaders are doing voluntary work to clean the canals and the neighborhood. It is also important to provide waste bins throughout the community so that the residents know where to put their trash. And also it important to sensitize the government, the private manufacturing factories, the Ministry of Health and environment, the National Service for Solid Residuals management (SNGRS), and the different Mayors offices specially the mayor office in Cité Soleil on the trash concerns to develop a better policy plan for management and removal.

What are effective ways to stay sanitary in conditions where there is no running water?

One thing that can be done is to provide health education and running water to the people and give the community the means and materials to remove the trash at the local level. At the governmental level, the State needs to improve their waste removal system with a more specialized transportation process that is specialized towards eliminating waste where it is creating the biggest problem. We must also try to find other places to store the trash where it is farther away from the community than the community of Truitier in Cité Soleil, where trash is currently being compiled among a living population. If the community leaders have the means and the necessary training, they can take care of their community at the local level and ensure access to running water. There also needs to be greater awareness on the topic and the involvement of all the sectors. Where there is problem, there is opportunity too. If the government cannot properly manage this growing problem, it should be delegated to outside companies or agencies who are able to deal with the issue.

What would be the general annual cost of providing access to general medical treatment to an individual within an impoverished community of Port-au-Prince?

I am not an economist, but I assume that the general annual cost of providing access to general medical treatment to an impoverished community of Port-au-Prince would be less than 4 million dollars USD of the Petro Caribe money (Venezuela has loaned money to Haiti with tax and it was mismanaged by the Haitian officials). These funds could be used to help repair and run the hospital Sainte Catherine and the CHAPI health center, as well as build two additional health centers. Funds being brought into Haiti for other reasons would go to much greater use if it were re-directed towards combating the growing waste issue. These funds would be helpful to decrease the incidence of diseases, hunger, and gang violence in Cité Soleil and improve the living conditions.

The \$12 million USD that is paid annually to the company of SOGENER for the purpose of providing electricity that doesn't exist for many residents would be more than enough alone to create significant change in Cité Soleil. Another example would be to redirect the funds received from Dermalog, a German company, for the purpose of implementing a new identification card system. Yet this system does not work, and that same fund could have been put to very essential use to clean up Cité Soleil and complete the Louino Robillard's Library project (Konbit Bibliotek). Another idea would be to tax the factories and industries that produce significant pollution and are responsible for the sanitary conditions. Doing so could decrease some health and socio-economic problem in Cité Soleil or at least generate funds to help alleviate the issue.

For example, at Haiti Clinic, where we provide medical care in Cité Soleil patients only pay or contribute to 50 gourdes (40 cents in US Dollar) and they have access to medical consultation, lab exams, and treatment. And we are a small organization with limited support and without UN agencies and USAID funding. I assume that a general annual cost of providing access to general medical treatment to an individual within an impoverished community of Port-au-Prince like Cité Soleil would be less than 100 US dollars which is not a big deal for the government, the manufacturing companies, the NGOs, and the agencies to support.

What preliminary steps must be taken to ensure that conditions are suitable for allowing larger methods of medical relief to come in and work within the area?

In short, increased advocacy worldwide, particularly in the United States, would be the best way to bring the level help and support to Cité Soleil that is needed to adequately resolve the growing issue. Research is also important to generate knowledge and understand the context and the reality of Cité Soleil.

I have experience working in this specific field within Cité Soleil, both before and after the 2010 Haiti earthquake. After the 2010 Haiti earthquake, I was just finishing my social service task. This is a process within Haiti where new physicians are required to provide one-year of medical services to the Haitian government and the Haitian Ministry of Health to cover the national need for medical staff across the country. After finishing my social service in December 2009, the earthquake happened and I was in charge of mobilizing the community and the camp committee to provide aid. My team, including my wife and I have reached out to many NGOs to provide assistance in Cité Soleil, but all were reluctant to enter the area because they were afraid [of the conditions in the area] and did not want to work there.

Eventually, we were able to find Partners in Health, headed by Paul Farmer and Joia Mukherjee, Louise Ivers who agreed to support the camp committee and provide two-year's worth of medical care to Haitians living in Central Plateau. This became a reality thanks to the support of many Partners In Health funders, specifically the Abundance Foundation lead by Stephen Khan.

It was hard for the Cité Soleil community to see these people leave because they thought that they would stay. Other organizations like MSF and MDM used to work there but they don't stay. I have made previous comment to this in my Master's thesis at Harvard University entitled: The Humanitarian after the 2010 Haiti earthquake: The Case of Accompaniment (attached). After I completed my Masters degree in 2014, even though there had been organizations providing post-

earthquake relief in Haiti, many of them chose not to continue with their projects because of the overwhelming nature of the issue.

For example, in 2019 a friend from my Harvard medical school program visited me at my home in Haiti. I wanted to take her to Cité Soleil to show her my work and the conditions that exist in the area, but the chief-organizer of her work mission did not want her to go because Cité Soleil had been labeled as a “red zone” and the most dangerous places in the world.

The lack of attention to this urgent and growing problem is a violation of human rights, as well as the humanitarian principles that the world hold as fundamental. The lack of attention to this issue has only created additional suffering to those living among the conditions because they are forced to cry for more social justice and equality, but are continued to be discriminated against because of where they live.

I have been hired by Haiti Clinic, a Florida-based organization in the United States that began providing aid to Cité Soleil in 2007. I was attracted to Haiti Clinic because they share my same vision for Cité Soleil in how they provide aid and strengthen the community. Throughout my six years with Haiti Clinic, the organization did not have any support from big, well-funded agencies such as USAID or any United Nations agencies. Despite any lack of assistance, Haiti Clinic continues to provide healthcare in Cité Soleil, thanks solely to the continued passionate efforts of the staff and US board members such as Dirk Parvus, Jim Dale, Kevin Browngoehl, and Neil Heskell, Lisa Clark, and Jennifer Tossie.

In addition to advocacy and research, activism is essential. Activism doesn't have to be specific to cleaning up the trash in order to make a difference. Meeting with the residents, especially the children, conferencing with them and hearing their pain is important. Providing outlets for children such as programs for art, dance, sports and behavioral growth/development would do so much to change attitudes of the residents and the stereotypes they face from outsiders.

In regards to the children living in Cité Soleil, everything possible should be done ensure that they are provided access to all basic essential services. Haitians are incorrectly labeled violent, but this is not true. Haitians are desperate for jobs, shelter, education, healthcare, basic sanitation and access to food. These are all basic needs. Anyone in the United States, France or any wealthy country would be desperate if they were deprived of these needs. Really, the people who are violent are the ones who impede access for long time to these basic services to those who require it most. In consequences this privation of basic services generates trash depot, hunger, social suffering, diseases, gang violence, and premature death in Cité Soleil. This what we call at the department of Global Health and Social Medicine at Harvard Medical School “Structural Violence”.

What are the general added medical costs for an individual who is suffering from the common illnesses associated with prolonged exposure to waste and inhalation of burning trash debris?

The following are all general medical costs incurred by individuals suffering from illnesses associated with prolonged exposure to waste and inhalation of burning trash pollution:

First to be considered is the cost of inaction. Every day that this issue remains ignored, the number respiratory diseases among the cite Soleil community increases. Respiration diseases and infections are the leading causes of death among children. In this community, aluminum is commonly used to make metal utensils to cook. When this aluminum is thrown out and then burned, those nearby are at heightened risk to harm their respiratory systems as inhalation of burning aluminum can easily cause lung cancer with chronic exposure.

Another cost that is incalculable is the cost of premature death and loss of human capital for development. In Cité Soleil, people always die young. Between 0-5 years, a child could easily die due to of lack of access to vaccinations, sanitary conditions, lack of parents, lack of health education, and food insecurity. If a child is lucky enough to live through these fragile early years of development, he or she could easily die from hunger, armed conflict, sexually-transmitted diseases, or lack of basic essential services. I have personally seen a lot of young leaders with great potential lose their lives too early and this affects Cité Soleil's ability to grow and progress.

Cité Soleil has limited access to healthcare, as only the Sainte Catherine Hospital and the CHAPI health center provide care to the entire population. In this regard, the Haitian government, big industries and factories in the area and the United Nations should work to provide better living conditions and greater access to health centers for residents.

By providing the resources necessary to remove the trash and increase general access to healthcare, this urgent issue can be resolved in one effort as opposed to having to continue to pay for the healthcare of each individual who will continue to suffer the same as they remain exposed to the same conditions.

12. In your expert opinion, are the significant cases of infectious diseases, long-term respiratory conditions (such as asthma, lung cancer, etc.), and general low mortality rate for those living in in Cité Soleil directly caused by massive accumulation of waste and the improper/unmonitored methods of its removal through general trash fires?

Yes.

Signed by:



Kobel Dubique, MD, MMSc-GHD

Date:

11/22/2020

Witnessed by:

Belizaire Caronald

Exhibit I: Expert Report of Me. Patrice Florvilus

Témoignage

Mise en contexte

Insécurité, grande criminalité, impunité et violation du droit à la vie en Haïti

La situation actuelle en Haïti est alarmante. Elle caractérise du point de vue sociopolitique par une vide institutionnelle sans commune mesure, une mainmise de l'exécutif sur l'ensemble des structures de l'appareil judiciaire, une absence persistante de consensus sur un programme politique commun, une polarisation extrême, l'insécurité croissante engendrée par l'activité des gangs, de graves violations de droits humains, des massacres commis dans les quartiers appauvris et, selon certaines sources, avec la collaboration d'autorités étatiques, et plusieurs meurtres spectaculaires dont les plus récents sont ceux d'un juge de paix, d'un substitut commissaire du gouvernement, du Bâtonnier de l'ordre des avocats de Port-au-Prince, Me Monferrier Dorval et bien d'autres personnalités publiques. Selon l'agence d'information en ligne Alterpresse de janvier à juin 2020 150 personnes sont tuées par balle en Haïti.

<https://www.lapresse.ca/international/amerique-latine/201203/16/01-4506412-retour-de-linsecurite-enhttps://www.lapresse.ca/international/amerique-latine/201203/16/01-4506412-retour-de-linsecurite-en-haiti.phphaiti.php>

Un climat de terreur généralisée règne sur Haïti : kidnapping, séquestrations et assassinat se répètent quotidiennement. La population est livrée à elle-même, l'autodéfense devient la principale alternative des uns et des autres. Certains osent même parler de 24 heures l'Espérance de vie en Haïti pour les plus chanceux. Chaque haïtien/haïtienne devient un cadavre ambulancier.

Dans notre témoignage, nous allons mettre accent sur les points suivants : L'insécurité grandissante dans les quartiers populaires, la grande criminalité et l'injustice, la paralysie du système judiciaire, le dysfonctionnement des organes régulateurs et la banalisation du droit à la vie en général et la violence basée sur le genre.

Loin d'être exhaustif, ce témoignage constitue une contribution personnelle dans la lutte pour le respect des droits humains en Haïti et en faveur de la lutte contre l'impunité.

L'insécurité dans les quartiers Populaires et dans les milieux ruraux

Le pays n'est ni gouverné, ni dirigé, je cite Me Dorval. Ça va très mal ! Les quartiers populaires de Port-au-Prince, des villes de province et des communautés rurales font face à une hausse considérable du taux d'insécurité. Des quartiers paisibles des milieux paysans ont connu de leur côté une augmentation du taux de criminalité énorme. Citons à titre d'exemple, le contrôle des communes de Petite-Rivière de l'Artibonite par des gangs armés. « Armés d'armes lourdes et de machettes, des jeunes hommes découpent

froidement dans une ambiance festive et de réjouissance, d'autres jeunes garçons qui, d'après les informations obtenues par HPN, se donnaient pour mission de combattre et de mettre en déroute le gang de Savien (Artibonite) ». En une seule fin de semaine, soit du 29 février au 1er mars, l'agence en ligne Alterpresse a fait mention de 14 morts par balles à Port-au-Prince et dans la zone métropolitaine de Port-au-Prince et des communautés rurales.

Dans la Commune de Thomazeau, non loin de la Croix-des-Bouquets, à quelques Kms de Port-au-Prince, des rivalités entre gangs armés sèment la terreur. Des chefs de gangs réclament ouvertement des actes d'assassinats horribles sur d'autres membres d'autres groupes rivaux. Lors d'un affrontement en date du 8 août 2022 entre gangs armés dans cette localité, 8 personnes ont été tuées selon les confirmations des autorités policières. « La plupart d'entre eux ont été décapités puis brûlés. L'incident est survenu quand le présumé chef du gang dénommé 400 mawozo est allé sur le territoire d'un gang rival dirigé par un certain « Lanmò 100 jou » pour négocier la rançon de deux citoyens indiens enlevés.

Récemment, des centaines de familles ont fui des quartiers pauvres de la capitale haïtienne en proie aux conflits armés entre gangs rivaux ou en raison d'attaques ciblées. Les familles déplacées du Bel-Air, par exemple, soit 1500 environ, sont réfugiées depuis plus de deux mois à Solino « autre quartier pauvre l'aire métropolitaine de de Port-au-Prince ». Aucune intervention des autorités publiques n'est faite concrètement en vue de permettre aux familles déplacées de regagner leurs domiciles ou en vue de les relocalisation. Des enfants, des femmes, des personnes âgées sont entassés comme des sardines dans un camp d'accueil en dehors des normes standards de protection des droits des personnes déplacées dans leur propre pays.

Les groupes armés sont fédérés et regroupés autour de la structure dénommée « G9 famille et alliés » sous l'initiative de la Commission Nationale de Désarmement et de réinsertion, à en croire un des membres de ladite commission Jean Rebel Dorcéat.

La grande criminalité et l'injustice en Haïti : Avocats, défenseurs de droits humains et des membres du système judiciaire ciblés

Pour comprendre la corrélation entre la grande criminalité cautionnée par l'Etat et l'institutionnalisation de l'injustice en Haïti, il suffit de projeter un regard sur quelques crimes odieux qui ont bouleversé tout le pays, mais restent impuni jusqu'à date. Sans vouloir oublier les crimes commis par les régimes sanguinaires des Duvalier et des militaires après le coup-d'état de 1990, il nous est important de citer quelques exemples de crimes pour lesquels les familles des victimes et la population haïtienne en générale attendent encore que justice soit faite.

- Le 23 juillet 2020 prochain marquera le 33 anniversaire du massacre de Jean Rabel. Rappelons qu'une centaine de paysans, soit 139 selon des chiffres officiels, ont été massacrés dans la commune de Jean Rabel le 23 juillet 1987. Ce crime a été

revendiqué par un commerçant bien connu de la place, en l'occurrence Nicole Poitevin. Trente-trois (33) plus tard, certains des responsables de ce massacre encore vivants sont restés impunis.

- Le 28 mars 1995, l'avocate de Mirelle Durocher Bertin a été assassinée. Opposante farouche au président Jean Bertrand Aristide, âgée de 34 ans, elle venait de fonder son propre parti politique « le Mouvement pour l'intégration nationale »
- Le vendredi 11 novembre 2011, alors qu'il revenait d'une formation en Guadeloupe, le jeune avocat Briel Lagrandeur a été abattu par des malfrats.
- Le 8 février 2014, le défenseur de droits humains Daniel Dorsainvil, coordonnateur de la Plateforme des organisations de défense de droits humains (POHDDH) et son épouse Guerdy Lareche ont été assassinés. Aujourd'hui encore les organisations de défense de droits humains, la famille des victimes attend justice et réparation.
-
- Le jeudi 30 mai 2019, l'avocat Ramus Saintvil, ex-chef de la Police nationale d'Haïti (PNH), a été lâchement abattu par deux bandits armés circulant à moto à Pétion-Ville. Ce crime a été suivi de l'assassinat en date du 31 décembre 2019 de l'huissier Bob Dolciné devant la barrière du Palais de justice de Port-au-Prince.
- Le 7 janvier 2020, Antoine Lucius, juge suppléant du tribunal de paix de Ganthier, a été assassiné par des individus non identifiés, à Tabarre, non loin de la base de la brigade de lutte contre le trafic de stupéfiant (BLTS).
- Le 24 janvier 2020, le CALSDH a été la cible d'une intrusion policière musclée par agents de la police nationale d'Haïti. Par la suite, le 19 février 2020, des individus se réclamant de la Police nationale revendiquaient la reconnaissance de leur droit d'association ont tenté d'incendier le Cabinet de Me Samuel Madistin nationale d'Haïti.
- Le 19 juin 2020, le Substitut commissaire du gouvernement « Me. Fritz Gérald Cerisier » a été assassiné au Bel Air au volant de son véhicule. Ce crime a soulevé l'indignation de l'Association Nationale des Magistrats Haïtiens et du Réseau National des Magistrats Haïtiens.
- Le 26 octobre 2018, l'assemblée générale du Barreau de Port-au-Prince, réclame la démission du Commissaire du Gouvernement Me Ocnam-Clamé Daméus et la révocation de 4 policiers pour avoir agressé des avocats à l'enceinte même du Palais de justice de Port-au-Prince.

Le 28 août 2020, incroyable, mais vrai ! Me Monferrier Dorval, Bâtonnier de l'ordre des avocats de Port-au-Prince, voisin de quartier du président de la République Jovenel Moïse, a été assassiné dans son domicile. Quatre (4) jours seulement après ce crime

spectaculaire, soit le 1er septembre 2020, la maison de la victime a été vandalisée alors qu'elle devrait être sous haute surveillance policière en tant que scène de crime. Les 5 policiers chargés de surveiller la scène de crime ont été arrêtés sous l'ordre du commissaire du Gouvernement, puis relâchés sur demande expresse du Premier Ministre haïtien Joseph Joute suite à des actes de violence perpétrés par le groupe de policiers faisant partie d'une pseudo association dénommée Fantom 509.

- 14 octobre 1993 : François Guy Malary, avocat et ministre de la Justice haïtien, a été assassiné avec ses gardes du corps dans un guet-apens alors qu'il revenait du Ministère de la Justice. L'organisation paramilitaire « Le FRAPH (Front Révolutionnaire Armé pour le Progrès d'Haïti, puis devenu Front pour l'Avancement et le Progrès Haïtien), organisation dirigée par Emmanuel Constant dit Toto Constant et Louis-Jodel Chamblain, a été mise en cause dans cette affaire. Récemment, de retour en Haïti, Emmanuel Constant, a failli être libéré n'était-ce la vigilance des organisations de défense de droits humains. Le Parquet des Gonaïves, par l'entremise du Commissaire du Gouvernement, chef de la poursuite, a laissé entendre qu'il ne détient aucun dossier contre Toto Constant déporté en Haïti par les autorités américaines le 23 juillet 2020³⁶².

Dans un rapport sur Haïti, datant de 2004, l'organisation Amnesty International indique que trente-sept accusés dont le général Raoul Cédras, chef du gouvernement militaire, Emmanuel Constant, dirigeant et fondateur de l'organisation paramilitaire, les FRAPH, Michel François, chef de la police et l'adjoint de Cédras, Philippe Biamby, ont été condamnés par contumace. Ils ont écopé de peines d'emprisonnement à perpétuité assorties de travaux forcés et d'une amende d'un milliard de gourdes, l'équivalent de 43 millions d'euros. Ils n'ont toutefois toujours pas été arrêtés³⁶³.

- **Violation des droits fondamentaux des enfants et violence basée sur le genre**

Selon le dernier rapport de l'EMMUS, une fille sur quatre et un garçon sur cinq sont touchés par les violences sexuelles. 1.85% des enfants subissent une discipline violente dont 14% une discipline violente extrême. Les violences physiques concernent 29% de femmes et filles de 15 à 49 ans. Dans 45% de cas, l'acte de violence est le fait du partenaire intime. 12% de femmes et de filles haïtiennes ont subi des violences sexuelles. 31% de femmes et de filles subissent ou sont exposées à plusieurs types de violences qui sont autant d'éléments de pression psychologique dont le but ultime est d'exercer un contrôle sur elles. La prévalence des violences domestiques varie selon les caractéristiques sociodémographiques et l'âge. Il a tendance à diminuer avec l'âge, passant de 47% chez les adolescentes de 15 à 19 ans à 30%³⁶⁴.

³⁶² <https://www.haitilibre.com/article-31276-haiti-justice-le-dossier-de-toto-constant-mysterieusementintrouvable.html>

³⁶³ <https://fr.wikipedia.org/wiki/FRAPH>

³⁶⁴ Ministère de la Santé Publique et de la Population (MSPP). Enquête Mortalité, Morbidité et utilisation des Services, EMMUS-V, HAÏTI, 2012.

Au mois de février 2020, 15 enfants ont retrouvé la mort dans des circonstances troublantes à l'Orphelinat compréhension de la Bible de Fermathe « Localité de la Commune de Kenskoff, Haïti. Cet Orphelinat fonctionnait en pleine irrégularité selon les informations communiquées l'Institut du Bien-être social. Les funérailles des enfants ont eu lieu sans autopsie. Les institutions étatiques ayant pour protéger les enfants n'ont rien fait pour que les parents obtiennent justice et réparation.

Le 1er novembre 2020, c'était la consternation nationale en Haïti. Une jeune écolière de 22 ans, Evelyne Sincère a été retrouvée morte après des jours de séquestration par des ravisseurs qui négociaient des rançons avec des membres de sa famille. Son corps délaissé sur des immondices laisse croire qu'elle aurait été violée avant son assassinat. Ce crime a été précédé par la mort de l'étudiant Gregory Saint Hilaire à l'enceinte même de l'Ecole normale supérieure, une entité de l'Université d'Etat d'Haïti.

Le 17 novembre 2020, un jeune écolier âgé de 17 ans seulement, revenant de l'école, lors d'une tentative de Kidnapping à Pétion –Ville a été tué par balle. Le jeune Jimmy Telson se trouvait dans le véhicule familial lorsqu'il a été atteint de projectiles. Il a rendu l'âme à l'hôpital³⁶⁵. Ce drame a eu lieu seulement 5 jours après que Juventa Cantave, jeune fille de 23 ans, a été retrouvée morte dans son local de travail et quelques mois depuis que les corps sans vie de jeunes artistes Nancy Dorléan et Sébastien Jean ont été retrouvés après qu'ils aient été portés disparus.

La paralysie et dysfonctionnement du système judiciaire et de certains organes régulateurs : un chèque en blanc à l'injustice

La crise socio-politique du pays a toujours des impacts négatifs sur le fonctionnement du système judiciaire haïtien. Quand les juges, les greffiers et/ou huissiers ne rentrent pas en grève, c'est l'insécurité généralisée qui empêche aux cours et tribunaux de fonctionner. A titre d'exemple, depuis plus de 6 mois la Cour d'Appel de Port-au-Prince est dysfonctionnel. Le Palais de justice de Port-au-Prince se retrouve dans un véritable triangle de la mort. Les justiciables, le personnel de la Cour, les auxiliaires de justice évitent de fréquenter comme d'habitude le Palais de justice régulièrement au risque d'être tués ou attaqués par des bandits. L'exercice de la profession d'avocat devient presque impossible. Des allégations de menaces contre des membres de la Fédération des Barreaux d'Haïti suite à l'assassinat de Me Dorval.

Entre temps, le Parlement dysfonctionnel officiellement depuis le 13 janvier 2020. La Cour supérieure des Comptes et du contentieux administratif, organisme public de contrôle des actes administratifs et l'utilisation des fonds du trésor public, vient de connaître un méchant revers. Par Décret présidentiel en date du 6 novembre 2020, cette cour perd son pouvoir de contrôle pour devenir un simple organe consultatif malgré le fait que la Constitution amendée du 29 mars 1987, en son article 200.4 reconnaît à cette Cour le droit de réaliser les audits dans toutes administrations publiques.

³⁶⁵ <https://haitistandard.com/petion-ville-un-eleve-du-college-methodiste-de-puits-blain-tue-par-balles/>

Rappelons que la Cour supérieure des comptes a produit le rapport sur l'utilisation des fonds petro-Caribe et conclut que le président de la République se trouve au Cœur d'un stratagème de corruption.



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Exhibit J: Declaration of Daniel Tillias, Founder and Chair, SAKALA

My name is Daniel Tillias. I am the actual chairman of the Board of SAKALA: Community Center for Peaceful Alternatives, a center located in Cité Soleil, a district in the city of Port-au-Prince, Haiti. I co-founded SAKALA in 2006 with some childhood friends.

Cité Soleil

The community now known as Cité Soleil was originally developed as Cité Simone, named after Ovide Simone, the wife of the Haitian ruler known as Papa Doc. The main purpose of developing Cité Simone at that time was to have accessible labor near to a new industrial area of sweatshops for imported goods, located between the airport and the shore. At the time, it was part of Delmas, another big city that makes up much of Port-au-Prince. In its early days, this new community was populated by people who were looking for a new place to live, or the only place that they could afford after arriving in Port-au-Prince.

The poor people who lived in Cité Simone were the most marginalized in the city. They were either encouraged to migrate to the city or were just tricked into leaving their land to come looking for a better life and sometime lost it by looking so hard. In 1986, when the people managed to overthrow the government after 30 years of dictatorship, the first thing that happened with the community was the change of its name: the people named it after the sun, the City of the Sun.

Personal History

I was born 28 September 1977. My first days of breathing air were in Cité Soleil. I ended up here as my mom who was from the south and my dad who was a technician who was working to develop the nearby electric plant wanted to be close to their work. I was born there, was baptized in a church there, was doing everything there until it was time for school and I would leave the community every morning to go to school. I went to elementary school outside of Cité Soleil. Early at age 6, I was already told that this is a place to leave. I was like many who were in transit there on the move or set to go. This is why my parents tried their best to get me to school outside so I will be ready to leave when it will the right time to do so.

I was very lucky to be growing up in a house that I consider as a house of service. I was learning from my dad, the little hardware store guy, and my mom who had the largest water reservoir in the community to sell water to everyone. I could experience first-hand what it is to have some and not having much or have nothing at all. I understood very early as a child that for some people what they were facing everyday was not justice. There was no dignity for many people there who lack so much and had to live in conditions that I would qualify even so young as unjust.

So many did not have the very little that I had that it inspired me to join the cause of defending the rights of those who have less. I knew first-hand what it was to be treated with less regard because of what you have and what you look like. At school, I was bullied because I was the one coming from Cité Soleil. It was quite an incentive to be on the side of the marginalized and I decided that when I became an adult, I would go to law school to defend the rights of the forgotten.

After high school I went to Law School with my strong desire to become the lawyer that will help my community against all the injustice that I saw first-hand that the people there experience. However, in law school I had the sad experience of seeing that the judicial system was the real injustice against the people from Cité Soleil.

I decided it was not the best way to support my community. It was already too late to do something about all the injustices. Friends were already killed in the crowded jails, the doctors were no longer coming to the clinic there, the schools were already closed, the parents were no longer there to support their children. I had to do something that was not with the black robe that I see lawyers wearing in the courts. It was too much of a sign of mourning for a system that could not rise from its death.

I decided to drop law school. My interest had shifted toward social work. With this new approach I co-founded the community center in Cité Soleil as a safe space where every child in the community would be the welcome to breathe new air and to be away for a short moment of the day from the injustices of the outside wall.

I later attended an undergraduate program for community development and peace building through the Graduates School Future Generations. It was my way to bring justice to my community – not the justice from the courts but the real justice that everyone deserve that goes beyond what I saw as the caprice of a judge.

Now I see myself as a community agent who help the others to reach out to their full potential through alternatives that the space creates for them. This is an important step as I continue to see this community as an underserved community, a neglected community that the ones in charge are avoiding and don't even want to talk about.

The Story of SAKALA

This was the main purpose of creating SAKALA: so I could have this alternative for the kids – an alternative from gang recruitment, the lack of educational opportunity, the despair from the piles of trash that burn on their faces or the flooding canal kicking them out from their own homes.

The mission at SAKALA is to “serve as Cité Soleil’s only youth community center, to develop children and young adults through athletics, agronomy, and education. Founded as a peacebuilding project, Sakala builds people of courage and character, to strengthen the families and communities of Cité Soleil.”

In depth, SAKALA is really helping parents with no opportunity and being so neglected by the government to see that it is still possible to do the right thing for these children. What we want for these children is to receive their full rights and dignity as human being. It is something we believe they all deserve.

My role in all this is to continue to remain a model for these children who lack model and mentors and this community. I work with partners to find alternatives for these children to know there is other form of existence that have more dignity in them. But also, as the chairman, I am everywhere trying to reach out to find resources, both human and financial, that can help make a difference to keep this effort going on behalf of respect and dignity for all people in Cité Soleil.

My hope is that one day, the powerful stakeholders in the country will open their eyes to see these alternatives at work in Cité Soleil, to end the image they have that Cité Soleil is just a place where nothing works.

SAKALA now has 300 members enrolled in the program every year. They are benefiting from all kind of tools and support to lead them to a path of becoming the future leaders who will make a difference in the country.

As a positive initiative, SAKALA has turned one of the trash piles into a community garden, the Jaden Taptap (named after the informal taxis of Haiti). It was done with the intention to show life to the children. To create a place where children can continue to breathe well, to dream big, and to get inspired. A place where there will be leaves to make the next herbal tea. This is a model space to send a powerful message on behalf of these children to say that the children in Cité Soleil deserve something better; a way to say that they will not have to live on pile of trash forever. We believe these children deserve to see more than green next door. We want them to see an actual garden. The children of Cité Soleil need to breathe good air.

Environmental Conditions Around SAKALA

We provide the means for motivation so the children would not be outside where they are exposed to the limitless violence and also many precarities and environmental degradation that impacts their mental health as much as their physical health.

The various environmental precarities have been a constant threat on the work of SAKALA over the years. The children who come to SAKALA have to cross piles of trash to get to the Center. Sometimes, they have to fight blind spots because of heavy smoke that invade the entire community. Other times, they must cross the canals that overflows and flood their homes and the path to the neighborhood.

Since the creation of Cité Soleil, because of its location downstream on the coast, up to 7 huge canals that are 10-feet to 20-feet-wide and almost 2 miles long lead to the ocean. These canals that were built to channel used water to the ocean can no longer serve this

purpose. Over the years they have become clogged with waste; now they are only a huge long reservoir fill with aggregates, plastic, and trash. All the water from upstream cities like Delmas, Pétion Ville, and Tabarre is mixed with solid waste from the street. With the first drop of rain anywhere in these cities, everything flows directly to the ocean through Cité Soleil but because of the clogged canals, the waste does not find its way to the ocean but makes its way instead to the tables and the beds of the households where children live, chasing them from their own rooms for hours and sometime days until the water recedes. The canals are no longer a channel to let thing go through but more of a reservoir to hold a lot of solid waste.

The people of Cité Soleil are left on their own with this problem, as they can not remember the last time there was a real cleaning of the approximately 2 miles of these canals that are now one now with the street.

By themselves, there is a limit on how much the people of Cité Soleil can do. Very often, the solutions to mitigate the disaster of the poor management of this waste is actually burning everything. But that creates an even bigger threat on what people (and mostly children) have to breathe there. As the houses are on the canals or very close to them, disposing of the waste in this way itself becomes a threat to public health in the entire community and the communities nearby.

The Impacts on Children of Environmental Waste

As the condition worsens, more trash piles are built and Cité Soleil seems to become the City of Trash and the children there continue to be bullied in school as the trash kids of the country.

The poor management of waste can become emotional disease or physical disease for the children. We know it is devastating for a child life to have only trash as their decoration. They can only dance on the mud and trash that take away their sense of humanity. The way the trash is disposed of now in the canals is just like the children there had no other destiny and had no dignity. Because of this, you hear them say too often say that they have no existence. A young boy told me once he was already dead, they just can not find a grave for him yet, this is why he is still among us. When the sense of despair is so bad, the children there in Cité Soleil are then ready for any big loss. They have no real reason to live, they are ready not to be a real human being, their only dignity becomes the dignity of dying that at least everyone share.

These are awful situations for children who are children like any other children. When we know how much these children can be gifted and would wish to have a better neighborhood that would allow them to be just children.

So many children are dying there or will be die soon because of the waste situation in Cité Soleil. But not enough attention is raised to talk about this. This whole situation reminds me of this song in the neighborhood about all of these stars that are off and could brighten such a new future for the community. We know what children mean for the

future of a country, we know the kind of light these children could shine on the future of this country. But they will not if the dignity to be in a place where the most fundamental of rights is not guaranteed.

As much as the canals will continue to be clogged, so many young lungs will be clogged the same. The smoke that dissipates in the air is the same as the dreams of children dissipating in the air. Children whose parents have to choose between sending them to school or to a clinic. Children should not be expose to this.

We want eyes to be open, voices to whisper hope on behalf of these children so that our efforts to create a cleaner environment for these children could also be an effort for dreams to come true.

We want these children to fly and know their potential. We have through this action a special thought for these children from SAKALA who have died already, suddenly, without having the time to tell us what they were suffer from, and for those who are still suffering from breathing a smoke that is toxic.

We want to see our children becoming children again without having to deal with so much trash all around them.

This is the reason of this action. This is so the children there can become who they were born to be. So they can fully live with dignity that life intended for. It is starting with the children because they are the future, they will be our adults of tomorrow. This is the only way we can have the real world, the real peace on earth. Letting this go is like forgetting about our humanity, it is forgetting we deserve something better.

The Restitution these Children Deserve

When considering all that was taken from this community, there are two things that come to mind. First, the very bad condition of waste management needs to stop. Second, the children need to be compensated for the loss that assemble over the years, that take away from so many of these children their real rights for dignity to live in a community that serve them with respect. We are not talking about money that someone will get in a civil litigation. We believe the best compensation for so many years of degradation is extra service for this community.

We know of so many children who had to stop school because they were sick and their parents could not afford to pay both health care costs and education costs and they had to choose. So this is the time when there should be new education programs that are adapted to the needs of the community that can help them find jobs that will help them take care of themselves.

So many of these children remain sick from experiencing so much poor management of the waste. There is a time to start providing free health care in the community. Many parents did not choose to spend all their saving in the heavy cost of treating their kids.

This is now time for them to get support to start a small business that will help them stand back on their feet.

Sakala as a place need to be serving more children. There is a need to develop more green space in the community where children can play and where they can enjoy fresh air. So Sakala would need a special assistance to achieve this.

There is no way this community can forget all they have been through with the environmental degradation that they were exposed to. But with some support to fix some broken areas of life there, it will bring back a sense of dignity that was lost there. More than ever this community deserves this and with some joint effort with alliance with law school and advocacy from human rights group we should create a precedent where children any where would know when it comes to their dignity the world will never stay blind.

Signed by:

Daniel Tillias

Daniel Tillias

Chairman of Board, Sakala Community Center

Date:

Jan. 21, 2021

Witnessed by:

Nancy Young

Exhibit K: Declaration of Felder Jean Paul, Executive Director, SAKALA

My name is Felder Jean Paul, I was born in Croix-des-Bossals the biggest Haitian open market in Haiti on May 05, 1981. When I was one and half year old, my parents moved to Cité Soleil, (Cité Lumière) three months later we move to another house close to the canal “Rigol Grès” at Cité Soleil where I spent fourteen years. It was a terrible experience for me and my family because personally I was victim to the bad condition people leaving in Cité Soleil. I missed a school year because I was infected by a microbe. I could not wear pants for some time when I was about eight years old. The wall of my house was part of the canal. But I believed education is the key to pass this situation. I studied management, Entrepreneurship and Administration. Now I am doing a master international cooperation and humanitarian Aid.

I thought it is very selfish if I use my skills just to solve for myself and my family. Then I start thinking how to use my knowledge to serve other people too. I said to myself my life is in Cité Soleil, where I spent my childhood. I started formal work with SAKALA in 2010 as administrator, but now I am the Executive Director of SAKALA. Before I was a consultant for Daniel and helped in preparing grants and reports. As director, I prepared the annual plan with budget for the center, direct the staff. I participated in grant writing more in the budget and control the work of the staff. I personally work with the youth in the program and the Junior Staff in giving them management skills and disciplines. I also coach youth that interested in doing business.

SAKALA is an acronym with means Sant Kominotè Altanatif ak Lapè or in English Community Center for peace Alternative. We serve about 300 kids. We registered as an NGO which a nonprofit organization. We have revenue from grants or donations. Now we have a staff of 11 people and a junior staff of 8 people. Our program has three axes which are Sport, Education and Agriculture.

For Education we provide school tuition and facilities for after school program. We also provide food in the after-school program and drinking water is also available for them too. The children come at 1 PM after school and release at 6 PM. We have different sports like Volleyball, Soccer, Basketball, ping pong... we have the best urban garden in the Haiti which a big success for the country and attracts a positive vibe to Cité Soleil.

SAKALA shows that an alternative is possible in Cité Soleil. We have acceptance in the community even though we look like a Paradise in Hell. It is just a way to say in our community kids are facing a lot of challenges, like education problems, health problems, sexual abuse, and so on. The children are not living in dignity and respect. Their right is violated all the way. It is the base of a lot of problem they are facing. No school, no water, no food. Tons of trash, tons of dirty water, mosquitoes, and microbes. People just try anything to protect themselves.

If we want to say something about justice. It's terrible. I can say only one word it does not exist. All the rights are violated, right to live, to educate, to eat, to have water access and so on.

Signed by:

Felder Jean Paul

Felder Jean Paul

Executive Director, Sakala Community Center

Date: January 26, 2021

Witnessed by: Nancy Young

Exhibit L: Declaration of Dr. Mackenson Saint Fort (with C.V.)

Health, environment and state responsibility

Physical, neuropsychological and mental health is a sacred right of the populations for which the State must vouch. The latter must implement a public health system that works in the prevention and correction of anything that can threaten the physical and psychological integrity of the people, hindering their well-being.

Links between health and environment

There is a vital interconnection between man and his environment. The survival of one depends directly on the other and vice versa. We must see in this interdependence the analogy of the visceral connection via the umbilical cord which unites a mother to her child. During intra-embryonic life, the affections of the mother whether or not induced by irresponsible or toxic behavior will have direct repercussions which may lead to the loss of the embryo or the fetus. It is just as true that in the toxemia of pregnancy (preeclampsia), it is the product of conception (embryo or fetus) that represents a threat compromising the vital prognosis of the mother. Ironically, the systemic and visceral complications of this pathology can be fatal to both the mother and the child as the survival of this latter depends on her. In other words, the well-being of man depends on the environment he lives in and how he treats it. One of the prerogatives of state officials is to ensure that the populations under their responsibility can evolve in a healthy environment guaranteeing them a fulfilling and healthy life.

Health, environment , Cité-Soleil and state responsibility, where are we?

1- The environmental reality of Cité-Soleil

Cité-Soleil, a community of Port-au-Prince of around 400,000 inhabitants, the majority of whom live in absolute promiscuity and the most extreme poverty with less than 2 US dollars / day. The socio-economic and environmental degradation of the last 60 years in Haiti's largest slum, has transformed it into an unhealthy area of lawlessness where gratuitous crime, generalized insecurity and the most abject poverty rule.

Almost without a sewerage and wastewater evacuation system, the open canals available to it are very poorly maintained and completely obstructed by waste of all kinds from Pétion-ville, Delmas and the surrounding areas. These are essentially composed of plastics residues, organic materials, raw sewage, alluvium due to erosion and even faeces. This environmental chaos is a good reason for the frequency of flooding in the area where any seasonal rain is likely to become torrential and deadly.

2- Reality of water, contamination and poisoning.

The contamination of the water table in this commune by the faeces which arrive there either by runoff, or by non-compliant latrines or quite simply because the population does not have any, makes the water unsuitable for safe consumption. The coliform bacilli,

parasites, protozoa, fungi and the toxins it contains, transforms it into a dangerous poison for the inhabitants of this area.

Contamination by fecal coliforms, *Cryptosporidium* oocysts and *Giardia* are responsible for chronic diarrhea in vulnerable populations with severe complications ... According to data from the Haitian state in 2008, 33% of the population consume dirty water during the rainy season, 23% quench their thirst with cloudy water and only 42% drink clean water. Because of the low coverage in waste and excreta disposal (Dimanche, 1999).

Hydroelectrolyte disorders, caused by diseases due to faecal peril such as: Cholera, typhoid, bacillary dysentery, genitourinary infection especially in girls, helminthiasis, intestinal protozosis, *Bilharzia* claim victims in Haiti. Where diarrhea, is one of the two leading causes of morbidity in children under 5 years old in Haiti (MSPP-OPS, MSPP 2004), *Cryptosporidiosis* represents 17% of acute diarrhea in children under 2 years old and 30% of chronic diarrhea HIV-infected patients (BRAS, 2005). The treatment of water with chlorine by CAMEP and SNEP (DINEPA) because of fecal coliforms is likely to form the carcinogenic substance “Trihalomethane” (Emmanuel et al. 2000)

Water: Salinization by excessive pumping: 50% of the capital's water comes from the aquifers of the Plaine du Cul de Sac (Drouillard, Cité-Soleil), annual rate of salinization 3% per year according to (Emmanuel 2003). This again makes this resource non-potable and unfit for use.

Stagnant water formed by obstruction canals and sewers leads to the proliferation of vectors such: *Anopheles*, *Aedes*, *Culex*, responsible for malaria, dengue, yellow fever, Chikungunya, Zika and filariasis... this stream increases considerably the morbidity and mortality of infectious diseases which have a severe negative impact on the socioeconomic development of areas like Cité-Soleil.

3- Air reality: Atmospheric pollution / Plastics and other T oxics .

The state has no recycling cost plan for the tons of plastics of all kinds it utilizes or receives on a daily basis which are thrown away in the environment. These materials are destroying Cité-Soleil, by intoxicating the air, the water in addition to being responsible for the depletion of the water table by the phenomenon of runoff they produce and the flooding that comes along with it. This accelerates the salinization of the aquifer. Their non-standard combustion get rid of them or their use as a combustible (manufacture of aluminum boilers) release toxic gases into the atmosphere which will have harmful effects on the physical, neuropsychiatric and mental health of the population of this area.

According to Holly (1999), 15% of annual deaths result from bronchial atrophy ... According to SAFFACHE (2001) tens of thousands of poorly tuned vehicle engines evacuating exhaust gases and dust from quarries into the atmosphere. oppression and respiratory, neuropsychiatric, digestive, skin diseases and cancers. .. And greenhouse gases promote atmospheric climatic upheavals: cyclones, hurricanes, tornadoes frequent

in Haiti and which kill many people ... Soil degradation 1.5 to 2 million m³ of alluvium / year carrying into the sea arable land, therefore lower agricultural production and increase famine. Added to this, the energy constraints of households which caused the excessive use of charcoal in urban areas , including Cité-Soleil further devastate that city . In 1994 according to BME (2001) , domestic activities emitted nearly 29Gg of propane, 10Gg of methane, 18Gg of non-methane volatile organic compounds (NMVOC) and 196Gg of carbon monoxide ...

This exponentially increases the incidence of cardio-respiratory diseases.

How does the burning of plastic waste affect health?

There are mainly polyethylene (PE), polypropylene (PP), polyvinyl chloride (PVC), polystyrene (PS) and polyethylene terephthalate (PET). They are emitted in the form of volatile toxicants responsible for many cardio-respiratory diseases.

Plastic material + oxygen → CO₂ + H₂O + various gases which can be toxic

Preliminary investigation result

Put in context

This is a preliminary survey carried out on 15 adolescents from SAKALA in Cité-Soleil, including 12 girls and 3 boys. The age range is between 14 and 17 years old. They are all children in secondary school and the majority between 7th and 3rd secondary. They are beneficiaries of the SAKALA schooling program. They all live in Cité-Soleil near the blocked canals and are exposed to the same environmental degradation and precarious socio-economic conditions mentioned above. They represent a small sample of the population of this area exposed to the harmful effects of atmospheric pollution caused by the non-standard combustion of plastic waste and the massive contamination of the aquifer in their region.

95% of them attend a school in Cité-Soleil, and after class always meet in the afternoon at SAKALA for extracurricular activities and study supervision. As a result, they are constantly exposed to the harmful effects of this environment.

The goal of this clinical research is to evaluate a blink of consultation that i coupled with some laboratory tests and basic imaging , in order to assess the impact of this degraded environment on the health of these adolescents. The analysis and stratification of the data will show us the epidemiological difference or similarity between those of the Cité and the ones collected at the national level cited in previous studies.

Here is the clinical and psychosocial assessment sheet used in the survey:

SAKALASANTE / BHACCS, clinical and Psycho-social evaluation form

File number: BHACCS ----- Date and Time: -----

Last name First Name:-----
Address:-----

School and Class: -----

Academic performance for the last 3 years of study:
1 -----
2 -----
3 -----

Opinion: Satisfied ---- Not Satisfied ---

Why (search for psycho-social and environmental stress)

Generalized Self-efficacy Test
by Michelle Dumont, Ralf Schwarzer and Mathias Jerusalem, Berlin,
Germany, 2000.

Read each sentence carefully and circle the number that best describes you:

1 = Not at all 2 = Barely true 3 = Moderately true 4 = Completely true

- 1-I can always solve my difficulties if I try hard enough
1 2 3 4
- 2- If someone opposes me, I find a way to get what I want
1 2 3 4
- 3- It's easy for me to keep my focus on my goals and accomplish my goals
1 2 3 4
- 4- I am confident that I can deal effectively with unexpected events
1 2 3 4
- 5- Thanks to my resourcefulness, I know how to deal with unexpected situations
1 2 3 4
- 6- I can solve most of my problems if I invest the

necessary efforts

1 2 3 4

7- I can stay calm when I am faced with difficulties because I can rely on my skills to face the problems

1 2 3 4

8- When I am faced with a problem, I can usually find several solutions

1 2 3 4

9- If I'm "stuck", I can usually think of what I could do

1 2 3 4

10- No matter what happens I am able to deal with it generally

1 2 3 4

Assessment of Environmental Distress and Concerns After Exposure to Waste and Toxins:

Rosemarie Bowler and Ralf Schwarzer Environmental Anxiety Test, 1991

Response Format: Read each sentence carefully and circle the number that best describes you:

1 = Not at all 2 = Barely true 3 = Moderately true 4 = Completely true

1- I get angry easily when I think of the poisons thrown in my environment.

1 2 3 4

2- I am experiencing bodily symptoms which may be caused by chemicals in my environment at home or at school.

1 2 3 4

3- I don't worry about getting sick from chemicals in my home or school environment.

1 2 3 4

4- The image of being one day a victim of poisoning by toxic waste in my environment often comes to mind.

1 2 3 4

5- I don't mind living in a polluted environment because I am confident that I will not get sick

1 2 3 4

6- I am worried about the harmful toxic effects that the pollution of my environment could have on my body, including the loss of some of my intellectual capacities.

1 2 3 4

7- I have never worried about water pollution.

1 2 3 4

8- I wonder if there is radon or other dangerous substances in my house.

1 2 3 4

9-I'm scared when I think of all the toxic dumps in the world

1 2 3 4

10-I fear that there is a major nuclear accident or nuclear war in the near future.

1 2 3 4

11- Many people tend to overreact to the environmental threat.

1 2 3 4

12- I would have no problem working in an office or a factory built with asbestos or other potentially dangerous materials

1 2 3 4

13- I no longer worry about environmental poisons because science always seems to be successful in finding cures.

1 2 3 4

14- Memory problems can be the direct result of too much exposure to environmental toxins.

1 2 3 4

15- Toxic waste is a less serious problem than presented in the media.

1 2 3 4

16- Chronic exposure to environmental toxins does not cause serious illness.

1 2 3 4

17- people who handle chemical substances do not present increased health risks.

1 2 3 4

Personal and family history:

Functional review of devices:

OORL — Eyes: Nose and Sinuses: Oral cavity and Throat: Ear: -----

CARDIO-RESPIRATORY ----- Palpitations: Fatigue: Weakness: Lung:
cough: Dyspnoea: -----

NEUROLOGICAL ----- Consciousness (GCS): Vigilance: Sensory
disorders: Motor disorders: Headache: Migraine: -----

PSYCHOLOGICAL ----- Anxiety: Stress: Feeling of helplessness:
Ideas of violence and anger: Loss of concentration: Memory problems: ----

MUCOSUS ----- Skin lesions: Mucous lesions: -----

GASTROINTESTINAL ----- Abdominal pain: Nausea Vomiting:
Diarrhea: Gastrointestinal haemorrhage -----

GENITOURINARY ----- Dysuria: Pollakiuria: Leucorrhoea: Genital
pruritus: -----

PHYSICAL EXAM:
VITAL SIGNS: TA ----- HR ----- T ----- FR ----- SAO2 -----
WEIGHT ---- ----
NOTES:

Signature of doctor -----

Preliminary result of the investigation

- Ø 100% of these children had a complaint related to the respiratory tract ranging from repeated influenza-like illness in the majority of cases, however about 27% of them had signs and symptoms compatible with a serious bronchopulmonary disease.
- Ø 100% of them had a neuro-psychiatric attack which had serious repercussions on their school learning.
- Ø 100% had problems concentrating which could be correlated with attention deficit disorder and hyperactivity disorder. However hyperactivity and impulsivity n ' were not always present.
- Ø However, the inability to pay attention to detail Careless mistakes in schoolwork were

present in 100% of cases as well as difficulty concentrating on a task and avoidance of work requiring prolonged mental effort.

- Ø About 53% of these children suffered from ongoing anxiety.
- Ø 60% of them had stress and headache on a continue.
- Ø 13.3% of them detected fairly worrying memory problems in them, which in their opinion greatly affected their academic performance.
- Ø Approx. 87% of them presented ophthalmic disorders in the form of eye irritation: red eye, pruritus, excessive tearing, blurred vision ... About 53% had a decrease in visual acuity.
- Ø Almost 53% of them had nasal sinusitis and 60% had irritative pharyngolaryngitis.
- Ø 73.3% had an irritative skin condition ranging from pruritus, erythema, to vesicular, papular, pustular lesions and fungal dermatophytias which create remarkable psychological and aesthetic damage in girls especially.
- Ø Approx. 66.6% have a gastrointestinal disorder such as: Non-surgical periumbilical abdominal pain reminiscent of intestinal parasitosis, diarrhea, vomiting, etc.
- Ø Approx. 67% of girls are urogenital infections of diverse etiologies.

The preliminary results of this clinical study on the impact of the precarious environment of Cité-Soleil has on the health of the children of this area portrays the fact as follows:

" The environment is killing these kids not only physically but it's killing their dreams, it's killing their potential, it's killing their ability to be somebody tomorrow."

" Togeth er we can achieve social, economical and environmental justice. it's a basic human right to live in a safe, clean environment that can help fueling the hope of achieving greatness in one's life . United, we can restore the dignity of every human being but specially the youths like the ones in Cité-Soleil who are the future of the Haiti, the future of the world. "

Signed by:

Vincent Mackenson
Mackenson Saint Fort, M.D.

Date: 12/3/2020

FELDER JEAN PAUL

Witnessed by:

DANIEL TILLIAS

Bibliographie

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Coopération Technique GEF/UNEP No GF/2200-97-16/97-49
Août 2001

2- IMPACTS SUR L'ENVIRONNEMENT ET SUR LA SANTE HUMAINE DE LA COMBUSTION DES DECHETS PLASTIQUES MAI 2012:

COMMUNE DE OUAGADOUGO:

CABINET Projet Stratégie de Réduction des Déchets de Ouagadougou.

Création d'Emplois et de Revenus par des actions de collecte, de tri et de valorisation (PSRDO-CER);
01 BP : 85 Ouagadougou 01 Tél. : 50 35 28 54

3- Impact des déchets sur l'environnement par Sailing for change: Etude de la Fondation Ellen McArthur.

4-GEO Haïti 2010:

Le rapport sur l'Etat et les Perspectives de l'environnement: GEO Haïti 2010 a été réalisé avec des fonds du Programme des Nations Unies pour l'Environnement et l'appui du Ministère de l'Environnement d'Haïti avec l'aide technique de l'Université Quisqueya

5-Développement Durable et Santé Environnementale

en Haïti . Proposition pour la Mobilisation de Ressources: Organisation Panaméricaine de la Santé /Organisation Mondiale de la Santé (OPS/OMS), Port-au-Prince, novembre 2003

6- République d'HAÏTI, Ministère de l'Economie et des finances, Institut Haitien de Statistique et d'Informatique: Objectifs du millénaire pour le développement: Etat, Tendances et Perspectives. Décembre 2009

7- Cliniques pour adolescents Trousse d'outils pour la santé mentale:

Enfants en santé Manitoba

3^e étage – 332, av. Bannatyne

Winnipeg (Manitoba) R3A 0E2

204 945-2266 ou 1 888 848-0140

Courriel : healthychild@gov.mb.ca www.manitoba.ca/healthychild

8- AFP: La crise invisible de la production de l'eau dans le monde projection 2000-2010
AFP: Rapport de la Banque Mondiale publié le 20/09/2019

9- Saint Fort, et al.,

https://www.researchgate.net/publication/284013790_A_National_Trauma_Capacity_Assessment_of_Haiti

10- Saint Fort, et al.,
<https://www.researchgate.net/publication/277411175> Estimation of Surgery Capacity in Haiti Nationwide Survey of Hospitals

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<https://www.researchgate.net/publication/276837330> Quantification and characterization of the burden of traumatic injury in Haiti

oct.-20

Curriculum vitae of SAINT FORT Mackenson

Personal Information:

Mackenson SAINT FORT MD, General surgeon, epidemiological researcher in global surgery, professor, philanthropist

Tel : +509-33649753, email : mcson64@yahoo.fr/ mcson64@icloud.com

Spoken languages: Haitian, French, English, Spanish

Academic achievements:

- General surgeon graduated from the HUEH Department of General Surgery since October 2015
- MD graduated from the Faculty of Medicine of the « Université d'Etat d'Haïti » since september 2009

Additional Trainings:

Observership at Nicklaus Children's Hospital in « Pediatric Plastic/Reconstructive Surgery » under the supervision of DR. Chad Perlyn (Chief of the Division of Plastic/Reconstructive Surgery for FIU and President of Miami Society of Plastic Surgeons) in 2017 and in 2014

Observership à Dartmouth Hitchcock Medical Center, Lebanon New Hampshire from October to November 2014 in the « Emergency and trauma department » under the supervision of Dr. Andrew Crockett (Traumatology) et Dr. Sarah Crockett (Emergency)

Certifications in BLS (Basic Life Support, AHA), ACLS(Advance Cardiovascular Life Support, AHA), PALS(Pediatrics Advanced Life Support, AHA/AAP), NRP(Neonatal Resuscitation Program, AHA/AAP) delivered by the AHA(American Heart Association) and AAP(American Academy of Pediatrics)

- Certificate of completion of « Laparoscopy training course by the « University of Minesota » in coopération with the « Université d'Etat d'Haïti » in association with « Minnesota Institute Minimally Invasive Surgery » and « Hopital Bienfaisance de Pignon »
- Certificate of Completion of a training course on the treatment of cancers by SHONC « Société Haitienne d'Oncologie » during their 8th International seminary in 2013
- Certificate of Completion of a training course on the treatment of Cardiovascular diseases by the American Society of Family Medicine in 2012.

- Certificate of Completion of a training course on nonviolent communication according to the Rosemberg method in 2011
- Certificate of Completion of a training course on the full management of diabetes, hypertension and endocrine diseases by the FHADIMAC in 2008
- Certificate of Completion of a training course on integrated and comprehensive care for PLHIV in October 2008 by ITECH and MSPP

Professional Information:

- Clinical internship monitor at HUEH for FMP/EBMO UEH Since October 2020
- Manager of the department of surgery for MSF France-Haiti from 10/12/2019 to 20/07/2020
- University professor at « Université Saint Francois d'Assise d'Haiti » since October 2019
- Volunteer Surgeon at the «Centre Hospitalier Sainte Catherine de Labouré » of Cité- Soleil since 2018
- Hospital practioner surgeon at « Hôpital Rebeka Friedman » at Meyer Croix-des-Bouquets since 2016
- Volunteer medical and surgical consultant at SAKALA Cité-Soleil since 2018
- University professor at « Université Royale d'Haïti » since 2014
- University professor at « Université Mont Everest d'Haiti » since 2014
- University professor at « Universite Quisqueya » from September 2014 to 2016
- University professor at « Universite Chretienne de la Communaute de Caiman » since October 2014
- Assistant professor at « Faculte de medecine et de Pharmacie de l'Université d'Etat d'Haïti »from 2012 to 2016
- Trainer in Emergency medical and surgical care, preventive and social community medicine for FAES « Fonds d'Assistance Economique et Social » from 2013 to 2016
- Backup surgeon for Zanmi Lasante/PIH in : « Hopital Ste Thérèse de Hinche » and « Hopital St Nicolas de Saint Marc » 2014-2015
- General physician in « Médecin Sans Frontières Espagne », for the treatment of cholera victims at the CTC of Marchand Dessalines from November 2010 to April 2011

Publications:

- A National Trauma Capacity Assessment of Haiti, Journal of Surgical Research published online on October 16, 2015 <https://doi.org/10.1016/j.jss.2015.10.018> : Chelsea McCullough, Vincent A. Degennaro, Joel K.Bagley, Mackenson Saint Fort, Jean Hugues Henrys...

- Estimation of Surgery Capacity in Haiti: Nationwide Survey of Hospitals, May 2015- World Journal of Surgery <https://doi.org/10.1007/s00268-015-3089-2> Tu Tran, Mackenson Saint Fort, Marie -Jenane Jose, Richard A Gosselin
- Quantification and characterization of the burden of traumatic injury in Haiti, Feb. 2015- Annals of Global Surgery : Chelsea McCullough, J. Bagley, Mackenson Saint Fort, J. Sharma, Degennaro Vincent ... Annals of Global Health.81 .208-209. 10.1016/j.aogh.2015.02.980.
- Abstract: Capacity of Emergency and Essential surgical Care in Haiti. Published in Canadian Journal of Surgery, Vol. 56 (4 supply 1) August 2013. SAINT FORT Mackenson, TRAN Tu, PIERRE PIERRE J, HENRYS Hughes, GOSSELIN Richard, M.D Jose. Initiative d'UCHI, HUEH, UNDH.

International Conferences:

- Guest Speaker representing Haiti at the << Fifth Meeting of the World Health Organisation>> Global Initiative for for Emergency and Essential Surgical Care (GIEESC) 14-15 of October 2013 at Port Of Spain Trinidad and Tobago.
- Speaker at the << 13th Annual Bethune Round Table>>, Integrating Surgical Care Initiatives with National Health Care Priorities, 10-12 Mai 2013 at Vancouver General Hospital: Vancouver, British Columbia, Canada. On the “Baseline Capacity of Emergency and essential Surgical care in Haiti”

Global and Community Health Activities:

- General practioner and surgeon for << Lifeclinic>> a humanitarian team from Pennsylvania USA n their biannual outreach medical mission in the remote areas of Haiti since 2011 under the coordination of Julie Berger.
- General practioner and surgeon for << Friends of Haiti>> since 2012 in their outreach medical mission in Thomazeau in Morne Boulay, Noailles Haiti. Team coordinator : Father Larry Canaverra.
- Former Secretary General of HELPr Alumni, a charity made up of former HELP(Haitian Education and Leadership Program) grant holders to support the mission of this latter.
- Past Chair of HELP's Student committee and iniator of the « Project of supervision of Juvenile Offenders for a better social reintegration » in collaboration with PRODEV
- Volunteer teacher at AVJ (Association Voisin Jacquet) elementary school in 2005-2006

Reference:

- ✓ Dr. Guito Alexis Medical Director of « Hopital Rebeka Friedman » tel : 38396647

- ✓ Felder Jean Paul Executive Director of SAKALA tel : 36125314/ 41538207
- ✓ Dr. Julien Evins Medical Director CHOSCAL Centre Hospitalier Sainte Catherine Laboure tel : 37548670/ 33922463
- ✓ Dr Jude MILCE, Vice Dean of « Faculté de Médecine et de Pharmacie de l'UEH » tel : 38498750
- ✓ Dr. Chad Perlyn (Chief of the Division of Plastic Surgery for FIU and President of Miami Society of Plastic Surgeons)
- ✓ Dr Jacques PIERRE PIERRE member of the board of Directors and head of Department of Orthopedics of HUEH : 34582108
- ✓ Dr Hugues HENRYS Former Dean of the School of Medicine of « Université Notre Dame d'Haïti » 34010883.
- ✓ Dr. Tu TRAN, University of California and Duke University, +19162031031.

The following are transcriptions of video interviews of members of SAKALA and others, translated from French or Creole. The interviews were conducted in September 2019. The authors of the Petition and SAKALA are in possession of the original videos, which are not included in the Petition to protect the witnesses, but can be made available for *in camera* review.

Exhibit M: Testimony of SAKALA Intern, Witness #1
(Outside of SAKALA, September 1, 2019)

(Translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA,
Identity of interviewee available upon request by IACHR.)

Witness #1 (an Intern at SAKALA):

My name is [Witness #1] and I live in Cité Soleil. This is the situation we live in in Cité Soleil (shows trash). From here we can see the canal St. George which is in a very difficult situation, kind of like in a disaster.

Before, in the 1980s, there used to be some big loaders and tractors coming to clean the canal, but it has been more than ten years now since then and Cité Soleil has been completely neglected and forgotten. No one comes to clean the canal and this is the situation people live in in Cité Soleil right now.

Erin Daly: What is in the waste?

Witness #1: Most of the waste there is from erosion, residue, sand, soil -- so 70 percent I would say is construction material.

Erin Daly: Most of the material in this canal, is it from this community or somewhere else?

Witness #1: No, no, I don't think so. I think it comes from other areas and different parts of town, because Cité Soleil is downstream and these are upstream and they feed Cité Soleil with all the waste. We are talking about cities like Delmas and Petionville that feed Cité Soleil all their waste.

**TRANSCRIBED VIDEO TESTIMONIAL OF WITNESS # 1 AT THE OPEN DUMP,
SEPTEMBER 1, 2019**

Witness #1: Now we are in a neighborhood in Cité Soleil, this neighborhood is a dump site. They collect the waste everywhere, like Delmas, Petionville and Port-au-Prince and they bring it and throw it away in Cité Soleil. And there is a soccer field next door and people are living there and children should be playing there.

James R. May: And the ocean, it's there?

Witness #1: And over there is the ocean behind a big pile.

Exhibit N: Testimony Of SAKALA Intern, Witness #2
(SAKALA, September 3, 2019)

(Translated and transcribed from Kreyòl by volunteer Ms. Nancy Young, at SAKALA,
Identity of interviewee available upon request by IACHR.)

Witness #2 (an Intern at SAKALA):

Bonjour, my name is [Witness #2]. I am an administrative intern at SAKALA.

The problem that we have here in Cité Soleil is very difficult for us because it is all about trash. When it rains, all the trash comes down from Delmas and all this trash comes through Cité Soleil and that way the people when it's raining all the trash comes into their houses. We live close to the sea so when it's raining all the trash comes down. We face pollution we face flooding. This is a really bad situation every time it rains. And this environment creates a lot of disease and also there is a lot plastic, organic trash, and everything just comes to us and it is not very good for our children and the future generations.

When it rains, the water takes over all the streets and sometimes the kids cannot even come to SAKALA because there is a lot of water in the streets. They have to be able to walk in the water in the streets to be able to come to SAKALA. And every time there are a lot of mosquitos that bite them. They get sick because there are all kinds of mosquitoes that give them fever. They get colds. So every time it is raining it is like a big problem for the city of Cité Soleil.

The worst part of it is that sometimes it doesn't have to rain in Cité Soleil to get all this trash. Sometimes it rains in Petionville or other cities or up in the mountains and we just wake up and see all the trash is coming down with water but we don't know where it is coming from. We just know it rained yesterday. So we have a big issue dealing with that because when it comes the water and trash gets inside the houses and people have to sleep outside or spending days trying to clean up all the mess that all the trash and the water brought.

Another issue that we face is to have access to clean water because of when it's raining because the treatment system we have to give us clean water when it rains the dirty water gets inside and mixes with the clean water. And the water we take from the treatment system is really not clean and we use it for food, to drink and sometimes we do not even know if it is infected and so we eat it and we get the disease and that is another big issue that we are facing because of this trash problem and this rain problem.

We have been dealing with this our whole life. Right now we don't know what can be done and that's why we are looking for help. We really want the government to do something for us but you know sometimes they are not concerned with this problem. We have seen that canal full of trash our whole lives and we want it to change. That is why we are asking for help right now because this is not good for us and it should be done.

Thank you.

Exhibit O: Testimony Of Nancy Young
(SAKALA Resident, Volunteer and Board Member)

SAKALA, September 3, 2019

My name is Nancy Young. I am a US citizen who is a volunteer and board member for the SAKALA community center in Cité Soleil. I have been coming to SAKALA since April 2010 and it has always been an example of what can be achieved under even the harshest and seemingly most hopeless conditions.

SAKALA is a center of learning, play, safety and opportunity for the youths of Cité Soleil. It is a green space of peace and calm.

As such it is also a place that is in stark contrast with the environmental disaster that surrounds it, encroaches on it, and threatens it and the children here every day.

When I am in Haiti, I live at SAKALA, just above what is nominally a drainage canal, but which is really the opposite as it is a cause of flooding rather than a solution for it.

The canal is always stuffed many feet deep with trash. It used to be that the road adjacent to the canal flooded every time it rained. Now, the flooded conditions are seemingly permanent, rain or shine.

As I write this, I smell smoke from trash burning. It could be from the trash canal below my window. Or it could be from any number of unofficial street dumps that circle SAKALA.

Adding to the injustice of the situation, most of this trash did not even originate in Cité Soleil. It either flows down from communities higher up in the hills or is trucked in from other places -- as if the community of Cité Soleil is a municipal dump and not a place where people live.

The smoke is a constant here at SAKALA and in Cité Soleil, so much so that sometimes I don't notice it. The people burn the trash because it is the main option for them to control the overwhelming volume of it.

Sometimes when there are high winds the air is thick with dark smoke from trash fires. My room fills up with it and becomes noticeably hotter even though I am far above the canal and not just feet away, like the homes that line it and the children that play near it.

Sometimes there is so much smoke that it makes me sick with bad headaches, deep fatigue, and body aches that takes a day or more to abate. If I happen to catch even a minor cold, the air quality here gives me a cough that can last months. I can't prove it because it is a subtle thing, but I am pretty sure the smoke here also causes a temporary shortening of my attention span, which thankfully returns to normal when I go back to the US.

I feel a little ashamed mentioning the effects on me -- because that is not important. And I can always leave.

I mention the physical effects on me only because they are a shadow of what children growing up here -- who can't just pick up and leave -- are experiencing. For them headaches, asthma, fatigue, a short-circuited attention span-- all are just normal. Feeling

sick is just normal for them, especially on the back of malnutrition and trauma, which our kids here also suffer from.

I also mention the effects on me because my background, I imagine, is similar to most of those people who would be reading this report, who would be attending a professional conference in a nice hotel. As a child I had the benefit of growing up with clean air and plenty of healthy food and water. I got to go to school and then college and then graduate school. To me that was normal.

When I am here at SAKALA, which I consider the most beautiful place in the world and the people here the best in the world, I am aware of how much in my life I have taken good health and basic opportunity for granted.

And despite everything they face, the children and youths here at SAKALA, are smart and talented and kind and have taught me so much. They are “bon moun,” Haitian Creole for “good people.”

So it of course makes me angry to see them deprived of their basic human rights that keep them from leading happy, healthy, and productive lives.

I invite you to come to SAKALA. You don't have to live here like I do. But come and see the garden and the sports and entrepreneurial programs. Play chess with the children (if your ego can stand to be beaten).

Then just over the wall, take a look at the trash canal. Maybe walk across it. Get your shoes dirty. Feel a little nervous that maybe it can't hold your weight and you might sink in the trash and sewage. Then imagine that you can't just leave on the next plane. That this is your life now.

Get overwhelmingly angry that this environmental disaster is here. That children live here. That bon moun live here.

And, then, like the people at SAKALA, do something about it.

Thank you for your time.
